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Retiring President of Mississippi State Bar

Mississippi Law Journal

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STATEMENT OF THE NEW PRESIDENT OF THE STATE BAR

To the Members of the Mississippi State Bar:

At the annual meeting of the Bar Association held in Jackson, Mississippi, there were present some three hundred and forty eight members. The Secretary reports that we have some fifteen hundred active members of the Association.

This would indicate either that the law business is so good that the lawyer can not take the time off to attend the annual meeting, or that business is so bad that he can not raise the money to go, or that he is not interested in the problems of his fellow lawyers, or some other explanation.

In any event the problems that you have as a lawyer are the problems that we propose to have as a Bar Association. The matter of fees that are allowed by the courts are in many instances too low; this should have attention. Most lawyers are too busy, going from one case to another, to keep up with Federal Regulations and State Departmental Regulations. These regulations have the force and effect of laws.

At the meeting of the Commissioners held in Jackson, they authorized and requested your President to assist them in holding institutes in each of the Court Districts of the state. We propose to hold one or more, depending on the local bars.

The meetings will be something along this line: The President of the local association along with your Commissioners and a committee will select the subject you want discussed, probably two subjects. We will attempt to get the speakers for you. We will get lawyers from the State Bar, they will probably come from some other district. The State Secretary will invite all of the members in your district to this meeting. She will give them an outline of the meeting, the names of the speaker and some of the authorities he will use.

In brief a general outline would be to arrange a schedule along the following lines:

(1) Meeting to come to order at 3:00 p.m. Speaker to talk 45 minutes and stop; open discussion.

(2) Adjourn at 5:00 p.m.

(3) Supper at 6:00 p.m.; total cost, 75c, of which 50c will pay for supper and 25c will pay expenses of local association.

(4) Meeting to come to order at 7:00 p.m., and another speaker to talk 45 minutes; open forum or discussion.

(5) Adjourn at 9:00 p.m.

These meetings are designed to solve the local problems. There will be no attempt to take up any subject that the local bar itself does not bring up.

The doctors of the state have their local clinics. The doctors through their clinics are keeping up with their problems better than we are.

This institute plan has been tried in other states; it works. It gives strength and solidarity. It renews your interest. It helps to solve your problems.

Please cooperate with your Commissioner and your local President and let's have a number of good live institutes all over the state.

Yours truly,

W. E. MORSE, President,

Mississippi State Bar.

Proceedings

of the

THIRTY-FIFTH ANNUAL MEETING OF THE

Mississippi State Bar

HELD AT

Jackson, Mississippi

June 26-28, 1940

PROCEEDINGS OF THE THIRTY-FIFTH ANNUAL MEETING OF THE

Mississippi State Bar

Held in the City of Jackson, Mississippi, on the 27th and 28th of June, 1940

The convention was called to order by Mr. William H. Watkins, President.

The invocation was delivered by Bishop William Mercer Green.

Short addresses of welcome were delivered by Mayor Walter A. Scott, representing the City of Jackson, and Mr. Ross R. Barnett, President of the Hinds County Bar, representing the lawyers of Jackson. The response to these addresses of welcome was rendered by Mr. R. E. Wilbourn of Meridian.

President Watkins then introduced Major W. Calvin Wells, one of a committee which had been very instrumental in bringing about the recent change in the mortmain sections of the Constitution, who explained the work done in obtaining this change and the effect which the change will have. Major Wells' remarks follow.

THE MORTMAIN AMENDMENTS TO THE MISSISSIPPI CONSTITUTION

W. Calvin Wells

As I look back over the history of the mortmain statutes and constitutional provisions in Mississippi, I marvel that the people of Mississippi have tolerated them for these years—these iniquitous provisions that were in our Constitution of 1890 and our Code of 1892 (and in some of the codes prior thereto), and brought forward from time to time in the Codes of 1906 and of 1930. It is rather remarkable that in this civilized and Christian commonwealth of Mississippi there should have been penalized in our very constitution—the organic law itself—the religion, charity, morality and education, and all those things that we usually consider virtues. Yet in sections 269 and 270 of our Constitution of 1890 and for many many years we had those statutes in force forbidding anybody to leave money or lands to religious or charitable institutions. I will not have time to go into the various phases of those two sections of the constitution. But when the decision was handed down by our Supreme Court in *Anderson v. Gift,* 126 So. 656, we had our eyes opened as to what ridiculous extremes these statutes really went. Many had thought that these provisions merely prohibited persons leaving money and land to religious institutions with which to provide funds for prayers for the repose of their souls and made no other prohibitions.

Many of you are doubtless familiar with this case of *Anderson v.*

Gift. There was an old gentleman in Alcorn county named J. E. Gift, who amassed a fortune. He was an illegitimate and never married. In 1923 he made his will. At that time and up to 1924 there was no inheritance under the laws of Mississippi among collaterals; so he was in the predicament of having no heirs, and of course had he died without a valid will, all of his property would have escheated to the State of Mississippi. When the old man died he left a few bequests to friends, neighbors, and employees and left the balance of his estate, consisting of lands worth two or three hundred thousand dollars, to trustees in trust for the benefit of the public schools of Alcorn county outside of the three towns therein. Our supreme court was compelled under the language of these constitutional and statutory provisions to hold that his will was void as to the bequest to the public schools and that all of his property so bequeathed went by descent and distribution to his distant collateral relatives, who under an act of 1924 could inherit. If that was not an extremely ridiculous situation for a state to find itself in, I don't know what would be. This old man was without legal right to leave his estate to help to educate the children out in the country in the county where he had amassed his fortune!

In 1938 there was a movement among the people of the state to correct this unbearable situation. It was remarkable in this: It was the first time in the history of the state that there had been lined up together in one concerted movement with the same end sought, Protestants, including all of the various denominations, Catholics, and Jews. Led by a small group of lawyers, all got together and formed a committee to have the sections of the constitution and of the code repealed. It is the first time so far as I know that such has ever taken place in the State of Mississippi.

You know how hard it is to amend our constitution—and it should be hard; that is exactly right, it should be hard. It requires a two-thirds vote of those elected to each branch of the legislature on three separate days. You know how difficult it frequently is to have as many as two-thirds ever present on three several days.

But at the 1938 special session of the legislature there were two concurrent resolutions adopted by the House and Senate by the required two-thirds vote. The next step to amend the constitution was a vote by the people of the state at the next election, so the matter went over until the fall of 1939. So far as I have been able to ascertain, there have never in the past been any constitutional amendments voted on where as many votes were cast for the constitutional amendments as there were for the candidate for office in that same election. The people usually don't know what the amendments are about and care less. But at that election when Sections 269 and 270 were repealed by the people, there were eleven votes in favor of the amendments to one cast against them. Furthermore, there was a larger vote cast for the amendments than the highest vote cast for any candidate for office at that election—a most remarkable vote, the most remarkable we have ever had on any constitutional amendment.

It was the belief of some of us that this constitutional amendment was self-executing and that by no legislative action could its terms be en-

larged or diminished. However, as an act of precaution, House Bill No. 32 was introduced into the legislature of 1940 and adopted by both the House and the Senate and was approved by the Governor on April 26, 1940. That bill repealed the first of our two statutory mortmain statutes and amended the second (Sections 3564 and 3565, Code of 1930), but, in addition to enacting those statutory provisions in the terms of the constitutional amendment, it added certain provisions. It is right interesting to me to observe the construction of these constitutional and statutory provisions so enacted. The author of the bill in the legislature, Honorable J. T. Brown of this county, says that we have done far more than we undertook to do. The Attorney-General does not agree with him in that interpretation, and I am doubtful myself whether he is correct or not.

When these amendments were submitted to the people, it was stated to them that the evil to be avoided was the non-taxability of land left to religious organizations, and the answer was to provide for their taxation. Provision was also made that these lands must be sold within ten years. The idea was advanced that there would be pressure at the time of the death of a testator to make some provision for some religious or charitable society—in other words, undue influence to secure death-bed wills. It is an interesting fact that in Mississippi there has never been a case reported, as decided by the supreme court, so far as I can find, where anybody accused a priest or preacher or rabbi of using undue influence to get money for a church or religious society. Such cases are reported as to doctors and various others, but never a one where it was charged that a priest or preacher or rabbi undertook to bring undue influence to bear on a testator to persuade him to leave his money for religious purposes.

Nevertheless, we inserted the proviso in the constitutional amendment to the effect that the will should be made so many days before death; if the testator left a spouse or child or descendant of child, he could not will more than one-third of his estate to such causes. The supreme court will have some interesting questions to construe under these new laws.

I want to say that we wrote and re-wrote many many times the resolutions amending the constitutional provisions. As enacted, the amendments to the constitution repealed Section 269 and amended Section 270 thereof. Section 270 as amended is as follows:

> "No person leaving a spouse or child or descendants of child, shall, by will, bequeath or devise more than one-third of his estate to any charitable, religious, educational or civil institution, to the exclusion of such spouse or child, or descendants of child; and in all cases the will containing such bequest or devise must be executed at least ninety days before the death of the testator or such bequest or devise shall be void; provided, however, that any land devised, not in violation of this section, to any charitable, religious, educational, or civil institution, may be legally owned, and further may be held by the devisee for a period of not longer than ten years after such devise becomes effective, during which time such land and improvements thereon shall be taxed as any

other land held by any other person, unless exempt by some specific statute."

The statute, House Bill No. 32, Acts of 1940, repealing Section 3564 and amending Section 3565, Mississippi Code of 1930, is as follows, to-wit:

"No person leaving a spouse or child, or descendant of a child, shall, by will, bequeath or devise more than one-third of his estate to any charitable, religious, educational or civil institution, to the exclusion of such spouse or child, or descendant of such child; and in all cases the will containing such bequest or devise must be executed at least ninety days before the death of the testator, or such bequest or devise shall be void.

"Provided, however, that any land devised, in accordance with the terms of this section, to any charitable, religious, educational, or civil institution may be legally owned, and held by the devisee for a period not longer than ten years after such devise becomes effective, during which time such land and improvements thereon shall be taxed in the same manner and to the same extent as land held by any others is taxed, unless exempt by some specific statute.

"Provided further, that within said period of ten years during which such land may be held, the charitable, religious, educational or civil institution holding the same shall have the power and right to sell and convey the said lands so held, or any part thereof, and its deed of conveyance may be treated as passing such title thereto as was possessed by the testator, or the said land, or any part thereof, may be leased for a length of time not extending beyond the expiration of the period during which it may be legally held by the lessor institution. But if such land be not sold and disposed of within the said period of ten years, then in that event at the expiration of the said period of ten years it shall revert to the heirs at law of the testator under whose will it was devised to the institution holding it, or to the devisees under such will as the case may be."

We lawyers are going to be called upon to draw wills for our clients, and we can at least advise them that they have the right under these amendments to make bequests and devises to orphanages, orphans' homes, children's receiving homes, the University of Mississippi, Mississippi State and other state colleges, and to denominational colleges, and to other institutions for the use of charity.

In closing I repeat, it is a marvel to me that we endured these iniquitous provisions of law as long as we did. They should have been repealed long ago.

The President introduced Professor Boyd Cypert of the University of Arkansas School of Law, who explained the purposes and work of the Practicing Law Institute of New York. Mr. Cypert's remarks follow.

THE PRACTICING LAW INSTITUTE

BOYD CYPERT

At the request of the director of the Practicing Law Institute of New York and through the kind permission of your President, I am privileged to be here today to make an announcement with reference to the summer session of the Practicing Law Institute.

I shall not have time to discuss with you the advantages and benefits of those things that cause these institutes to be established. It was my pleasure to attend last summer—and I really took two of the courses—and I was amazed at the scope of the Institute, at the work they are doing, and at the benefits that are being derived by practicing attorneys.

In 1933 four practicing attorneys conducted a class of 15 recent graduates of law school through 16 lectures, which were designed to bring those young attorneys into the work of the practitioner and the more important phases of general practice. It was a success to begin with, and the demand was so great that now they have courses not only for young attorneys coming into practice, but also for mature lawyers who want to keep up with new legislation, who want to learn the new practices and techniques that are developed, and for those attorneys who want to develop a legal knowledge in certain specialized fields.

So, in 1938 this had grown to be so popular, having the support of the local bar associations, as well as the state bar association, and also the approval of the American Bar Association, Mr. Seligson, the director, a member of the Committee on Legal Education of the American Bar Association, through the board of regents of the University of the State of New York took out a charter in the name of the Practicing Law Institute. Before that it had been called "Practicing Law Courses". They held fall and spring semesters, and in 1939 practically 500 lawyers of the local bar attended each of those two semesters. Ninety-eight lecturers conducted 37 classes, in 19 separate courses, and I might add that of those 98 lecturers, 54 are practicing attorneys in New York; and 14 are attorneys in different services of the government. Two only were teachers of law, while the balance were experts in the various fields, such as medicine, chemistry, economics, etc.

The next step was to take care of a lot of attorneys who wanted to take the courses and who were unable to be in New York during the fall and spring. In 1938 the first summer session was established. Last year 124 practicing attorneys from 21 different states as far west as Oregon, attended, and this year there will be 43 lectures given, 247 hours of instruction, from nine in the morning until ten in the evening; two hours each day will be devoted to each of the thirteen separate courses.

It is to this I want to direct your attention, because I believe it is of utmost importance to every one who wishes to carry on his legal education. Further, I think it is a fine thing for young attorneys, and I think that we are going to develop at the University of Arkansas a trial-clinic court, which we have found to be very popular in New York and which

those attorneys are getting lots of benefit from; because out of 124 last year, over 85% had been practicing five years and over 35, fifteen years or more; and those attorneys gained from that experience many things that helped them in their actual practice, since they had an opportunity to check up on their technique and tactics, as well as to learn other things.

The methods of these courses are handled by active practicing members who have been developed in their respective fields. The main purpose is, not to discuss the necessities and theories of law, but to bring to those attorneys the practical benefits and the methods of handling practice—every-day problems. In such a course as "Negligence" there will be an expert to give you the benefit of his experience—wide experience—not as to the plaintiff only, but in the preparation of negligence cases, from the start to the finish, on down to the supreme court, with the brief-writing, etc.

Other important courses are Real Estate, Bankruptcy, Tax Courses—always interesting to those lawyers who are specialists in tax matters. One of the popular courses is the Trial Clinic, where you learn by doing—learn to do by doing—because an expert carries you through those steps, and I do not care how much experience you have had, you could not fail to get something from this course. This year they are supplementing it by a Public Speaking course, which will help any attorney in developing his manner and method of conducting a trial, whether before judge or jury.

I find another contact very pleasant—meeting the lawyers from various jurisdictions. They are all together for a noon luncheon, at which ideas from the various jurisdictions are exchanged.

Many attorneys make their vacations coincide with these two weeks' courses and take in the pleasures of the city of New York—you again will have an opportunity to see the World's Fair. The Institute is a non-profit organization; it does charge moderate fees in order to pay for the lecturers and the necessary pamphlets and for the literature that has to be got out. I think you will find the money well spent and that you will benefit from the courses in your active practice. You will come back to your own jurisdiction fired with the idea of helping your local bar, your state bar, and with the opportunity to carry on your legal education, because the Institute is growing in popularity throughout the United States.

I see my time is up. I want to call to your attention the pamphlets here, and if any of you want them they are here on the table. If I can be of any help to you I shall be only too glad to do so. I thank you for your indulgence and attention.

The President's Annual Address was then delivered by President Watkins.

PRESIDENT'S ANNUAL ADDRESS

W. H. Watkins

The Act of the Mississippi Legislature creating the State Bar makes it the duty of the President at the annual meeting to deliver an address and provides that in so doing, he shall review recent decisions of the Supreme Court of the United States.

Mr. Warren, in his *"History of the Court"*, states that the history of the United States has been written, not merely in the "Halls of Congress", in the executive offices, and on the battlefields, but to a large extent in the chambers of the Supreme Court of the United States. Attorney General Wickersham stated that most of the important decisions of the Court have become pages of history. There is an abiding conviction among the people of our country that constitutional rights are safer in its hands than in either of the other departments of government, and that the Supreme Court furnishes higher evidences of achievement than any other branch of the government. No institution which might be created could achieve satisfactory results to all people at all times. Its decisions have been the subject of constant challenge, first by one political party and then another. In periods of partisan feeling, for ulterior reasons its membership has been frequently either diminished or increased; and, upon more than one occasion, it has been deprived of appellate jurisdiction in specific cases by express congressional action. The Court, however, has the respect and confidence of the nation, which fact is a great tribute to the ability, integrity, judicial independence and impartiality of the members of the Court.

In this address I desire to call your attention to two outstanding characteristics of the Court: The one is that in considering economic and commercial questions of social reform, its decisions have not been entirely consistent, but have shown great flexibility of interpretation. While upon the other hand, in dealing with questions of those inalienable rights provided in the Bill of Rights of the Constitution of the United States, it has never faltered, but has been unwavering and steadfast.

In the early '70s, there swept through the Central West a movement known as "the Grangers". It was the result of alleged abuses, excessive rates, and undue discrimination by railroads and other corporate interests. The legislatures of States, especially in the Central West, passed statutes regulating the rates to be charged by carriers of passengers and freight. The cases aroused great public interest, and the Court held in a series of cases known as "The Granger Cases" that such power existed on the part of state legislatures.

However, in 1886, there came before the Supreme Court of the United States the case of *Stone v. Farmers Loan & Trust Company,* 116 U. S. 307, reviewing a statute of the State of Mississippi providing for a railroad commission with authority to regulate rates and charges. The Court pointed out, citing the Granger Cases, that the act was valid; but

that whether the charges fixed were reasonable rates was a judicial question finally to be determined by the courts.

Finally in 1890, in the case of *Chicago, Milwaukee & St. Paul R. R. v. Minnesota,* 134 U. S. 418, the Court held that, not only was the reasonableness of rates a question for ultimate judicial decision, but that the railroad was entitled to a judicial method of determining the reasonableness thereof.

The Granger Cases were practically overruled in 1886 by the later case of *Wabash R. R. v. Illinois,* 118 U. S. 244, denying to state commissions the authority to regulate interstate rates.

In the case of *Pennsylvania R. R. v. Illinois Brick Co.,* 297 U. S. 447 [1936] and other cases therein cited, the Court went a step further and held that intrastate rates fixed by a state authority should not discriminate against interstate rates fixed by the Interstate Commerce Commission, and to that extent the federal rates were controlling.

In a long series of cases the Court held that, in determining the reasonableness of rates for carriers or utility companies, the reconstruction cost of the property used was largely controlling. However, in 1937 in the case of *Railroad Commission of California v. Pacific Gas & Elec. Co.,* 302 U. S. 288, the Court held that the commission might altogether reject the reproduction test if this test should be deemed lacking in probative value.

In the case of *Swift v. Tyson,* 16 Pet. 1 [41 U. S. 1 (1842)], the Court held that in cases where jurisdiction depended upon diversity of citizenship, it need not apply the common law of the state as declared by the highest court, but could form its own independent judgment as to what the common law of the state was or should be. This doctrine prevailed for a long period of time and was the result of wide-spread criticism, with the result that in the case of *Erie R. R. vs. Tompkins,* 304 U. S. 84, decided April 25th, 1938, the Court held that there was no such thing as federal common law and that the common law prevailing in the Federal Court was that announced by the highest court of the state. The case of *Swift v. Tyson* and a long line of cases following it were expressly overruled.

In the case of *Collector v. Day,* 11 Wallace 113, decided February 3rd, 1871, the Court held that Congress was without authority to impose a tax upon the salary of a judicial officer of a state. The Court used the following language:

> "The supremacy of the General Government, therefore, so much relied on in the argument of the counsel for the plantiff in error, in respect to the question before us, cannot be maintained. The two governments are upon an equality, and the question is whether the power 'to lay and collect taxes' enables the General Government to tax the salary of a judicial officer of the state, which officer is a means or instrumentality employed to carry

> into execution one of its most important functions, the administration of the laws, and which concerns the exercise of a right reserved to the states."

The doctrine was re-examined and re-affirmed in *Brush v. Commissioner of Internal Revenue,* 300 U. S. 352, decided March 15th, 1937. In slightly over a year this case was practically overruled in the case of *Helvering v. Gerhart,* 304 U. S. 405 [1938], wherein the Court held that an employee of a corporation created and operated as a state agency was subject to federal income tax.

In the case of *Dobbins v. Erie County,* 41 U. S. 435 [1842], the Court held that a state had no authority to tax the compensation of a United States employee. The rule was re-examined and re-affirmed in the case of *State of New York v. Graves,* 299 U. S. 401, decided January 4th, 1937, wherein the Court held that the general counsel of a railroad corporation owned by the Federal Government, was immune from state taxation, citing *Dobbins v. Erie County, supra.*

On March 27th, 1939, in the case of *Graves v. New York,* 306 U. S. 466, the Supreme Court held that the State of New York might impose a non-discriminatory income tax on the salary of an employee of an instrumentality of the Federal Government, to-wit: the Home Owners Loan Corporation. The Court justified its conclusions by reason of the expanding needs of the state and nation for additional revenue, using the following language:

> "All these doctrines of intergovernmental immunity have until recently been moving in the realm of what Lincoln called 'pernicious abstractions'. The web of unreality spun from Marshall's famous dictum was brushed away by one stroke of Mr. Justice Holmes's pen: 'The power to tax is not the power to destroy while this Court sits.' *Panhandle Oil Co. v. Mississippi,* 277 U. S. 218, 223, 72 L. ed. 857, 859, 48 S. Ct. 451, 56 A. L. R. 583 (dissent). Failure to exempt public functionaries from the universal duties of citizenship to pay for the cost of government was hypothetically transmuted into hostile action of one government against the other. A succession of decisions thereby withdrew from the taxing power of the states and nation a very considerable range of wealth, without regard to the actual workings of our federalism, and this, too, when the financial needs of all governments began steadily to mount. These decisions have encountered increasing dissent. In view of the powerful pull of our decisions upon the courts charged with maintaining the constitutional equilibrium of the two other great English federalisms, the Canadian and the Australian courts were at first inclined to follow the earlier doctrines of this Court regarding intergovernmental immunity. . . ."

In would appear that very little is left of the doctrine announced in *Schecter v. United States,* 295 U. S. 495 [1935], known as the "N. R. A. Case" and in *Carter v. Carter Coal Co.,* 298 U. S. 238 [1936], known as

the "Guffey Coal Act", after the decision in the case of *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 103 [1937], and the case of *National Labor Relations Board v. Fainblatt*, 306 U. S. 601 [1939], which sustained the National Labor Relations Act.

The foregoing citations, while by no means complete, are sufficient for the purposes of this address. The fact that the Court has repeatedly modified or reversed its views over long periods of time in dealing with social and economic questions does not necessarily indicate vacillation, nor should such a course be interpreted as weakness. Upon the other hand, the mere fact that it has modified its views to meet changed economic conditions or increasing social consciousness may be an element of strength. As said by Mr. Warren, every important opinion delivered by the Court adds a new page in the history of the nation. Its opinions affect the economic and social welfare of a vast number of people, and the reactions therefrom on such questions are tremendous. The members of the Court are not only great lawyers, but are judicial statesmen of the highest order. They keep in close touch with the effect of their opinions on economic and social conditions and are responsive to the needs of a constantly changing world. Therefore, although an opinion may have been correct when delivered, if subsequent developments or changed conditions have resulted in the opinion's producing evil or an injustice, the Court has not hestitated to modify or overrule its former decisions.

Mr. Justice Holmes of the Supreme Court of the United States in his *"Treatise On the Common Law"*, said:

> ". . . The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which Judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed."

The same great judge pointed out that the law is a moving panorama, upon which there is depicted the progressive struggles of mankind. At the same time the Bar and the American people greatly honor and respect those members of the Court who, differing from the majority by reason of the flexibility of interpretation adopted, have courageously, and with clearness, pointed out the great changes being wrought. Whatever inconsistency may appear in the Court's views upon economic and social questions, in its interpretation and protection of what is known as "civil liberty", its opinions manifest unvarying constancy.

By "civil liberties" we mean those inalienable rights finding expression in the Bill of Rights of the Constitution of the United States—freedom of speech, freedom of religious worship, freedom of the press, the right to a judicial trial, and right to life, liberty, and property. These are rights which rest upon no municipal law and owe their origin to no man. Mr. Warren states that they belong to what is known as the natural law and that they were "created by Him who made the tree". When God created man in his own image, he wrote upon his being the inexorable

demands of the attributes of freemen, and it is such qualities, conferred by the natural law itself, which have given him dignity and importance.

The President of the American Bar Association, in a recent address, has used the following language:

> ". . . Sweep away this civil liberty, and popular government would perish; America would become the home of a dull and brutal despotism; fear would creep into every office, factory, schoolroom, and home throughout the land; and distrust or hatred of friends and relatives would take the place of affection and confidence."

The genius, wisdom, and ability of this great Court have been constantly dedicated to the preservation of these rights.

On January 14th, 1867, the Supreme Court of the United States decided the case of *Ex parte Garland,* reported at 71 U. S. 366. In that case, it appeared that Garland was a practicing lawyer in the State of Arkansas. He was admitted to practice law before the Supreme Court of the United States in 1860. He entered the Confederate Army and remained a soldier until the termination of the war. In 1865, the President of the United States, Andrew Johnson, issued him a full pardon, relieving him from the pains and penalties resulting from his participation in civil war. In 1866, the reconstructionists in Congress procured the passage of an act providing that no lawyer should practice before the Supreme Court of the United States, or any inferior federal court, except upon taking an oath that he had never participated in any rebellion against the United States. Mr. Garland presented his pardon to the Supreme Court of the United States and asked to be permitted to practice before that Court without taking the oath provided by the Act of 1866. His right to do so was vigorously contested. In granting the petition of Mr. Garland, the opinion of the Court was delivered by Mr. Justice Field, Republican member of the Court. The Court used the following language:

> "The pardon produced by the petition is a full pardon 'for all offenses by him committed, arising from participation, direct or implied, in the Rebellion', and is subject to certain conditions which have been complied with. The effect of this pardon is to relieve the petitioner from all penalties and disabilities attached to the offense of treason, committed by his participation in the Rebellion. So far as that offense is concerned, he is thus placed beyond the reach of punishment of any kind. But to exclude him, by reason of that offense, from continuing in the enjoyment of a previously acquired right, is to enforce a punishment for that offense notwithstanding the pardon. If such exclusion can be effected by the exaction of an expurgatory oath covering the offense, the pardon may be avoided, and that accomplished indirectly which cannot be reached by direct legislation. It is not within the constitutional power of Congress thus to inflict punishment beyond the reach of executive clemency. From the petitioner, therefore, the oath required by the Act of January

24th, 1865, could not be exacted, even if that Act were not subject to any other objection than the one thus stated.

"It follows, from the views expressed, that the prayer of the petitioner must be granted."

The Court has always been most solicitous in protecting as a fundamental right the freedom of the press. A very interesting case was presented in that of *Grosjean v. American Press Co.,* 297 U. S. 233 [1936]. In that case a statute of the State of Louisiana imposed a license tax based on gross receipts for the privilege of engaging in the publishing of advertising matter in any newspaper, magazine, periodical, or publication for a stated circulation. The vice of the act lay in that out of a large number of newspapers in the state, only nine publishers fell within the classification. The Court, in holding that the act violated the First Amendment to the Constitution of the United States, used the following language:

"The predominant purpose of the grant of immunity here invoked was to preserve an untrammeled press as a vital source of public information. The newspapers, magazines and other journals of the country, it is safe to say, have shed and continue to shed, more light on the public and business affairs of the nation than any other instrumentality of publicity; and since informed public opinion is the most potent of all restraints upon mis-government, the suppression or abridgment of the publicity afforded by a free press cannot be regarded otherwise than with grave concern. The tax case here involved is bad, not because it takes money from the pockets of the appellees. If that were all, a wholly different question would be presented. It is bad because, in the light of its history and of its present setting, it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guaranties. A free press stands as one of the great interpreters between the government and the people. To allow it to be fettered is to fetter ourselves.

"In view of the persistent search for new subjects of taxation, it is not without significance that, with the single exception of the Louisiana statute, so far as we can discover, no state during the one hundred fifty years of our national existence has undertaken to impose a tax like that now in question.

"The form in which the tax is imposed is in itself suspicious. It is not measured or limited by the volume of advertisements. It is measured alone by the extent of the circulation of the publication in which the advertisements are carried, with the plain purpose of penalizing the publishers and curtailing the circulation of a selected group of newspapers."

The Court has been equally as industrious in guarding the rights of freedom of speech. A very notable case decided in 1939 is that of *Hague*

v. Committee for Industrial Organization, 307 U. S. 496. In that case, it appeared that the municipal authorities of Jersey City passed an ordinance prohibiting the holding of public meetings for the purpose of discussing public questions and the distributing, or causing to be distributed, in any street or public place, a newspaper, card, magazine, etc., without permission. The Court held the ordinance void, using the following language:

> "Although it has been held that the Fourteenth Amendment created no rights in citizens of the United States, but merely secured existing rights against state abridgment, it is clear that the right peaceably to assemble and to discuss these topics, and to communicate respecting them, whether orally or in writing, is a privilege inherent in citizenship of the United States which the Amendment protects. . . .
>
> "Citizenship of the United States would be little better than a name if it did not carry with it the right to discuss national legislation and the benefits, advantages, and opportunities to accrue to citizens therefrom. All of the respondents' proscribed activities had this single end and aim."

In the case of *De Jonge v. The State of Oregon,* 299 U. S. 353 [1937], the Court had under review a statute of the State of Oregon prohibiting the holding of public meetings for lawful discussion, where held under the auspices of a communistic party. The Court held that since the meeting was characterized by nothing calculated to incite the overthrow of our Government, violence or crime, that the statute interfered with the freedom of speech and was void. The opinion delivered by Mr. Justice Hughes used the following language:

> "These rights may be abused by using speech or press or assembly in order to incite to violence and crime. The people through their legislatures may protect themselves against that abuse. But the legislative intervention can find constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed. The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government.

To the same effect, see *Herndon v. Lowrey,* 301 U. S. 242 [1937].

In the case of *Levell v. Griffin,* 303 U. S. 444 [1938], it appeared that an ordinance of the City of Griffin in the State of Georgia prohibited the distribution of circulars, hand-books, or literature of any kind within the limits of the city without permission from the municipal authorities.

The Court held that the ordinance was void on its face, using the following language:

> "The liberty of the press is not confined to newspapers and periodicals. It necessarily embraces pamphlets and leaflets. These indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own history abundantly attest. The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion. What we have had recent occasion to say with respect to the vital importance of protecting this essential liberty from every sort of infringement need not be repeated. *Near v. Minnesota,* 283 U. S. 697, 75 L. ed. 1357, 51 S. Ct. 625, *supra; Grosjean v. American Press Co.,* 297 U. S. 233, 80 L. ed. 660, 56 S. Ct. 444, *supra; De Jonge v. Oregon,* 299 U. S. 697, 81 L. ed. 278, 57 S. C. 255, *supra.*
>
> "The ordinance cannot be saved because it relates to distribution and not to publication. 'Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without the circulation, the publication would be of little value.' *Ex parte Jackson,* 96 U. S. 727, 733, 24 L. ed. 877, 879."

In the very recent case of *Nichols v. Massachusetts,* decided by the Court November 22nd, 1939, it appeared that the City of Worcester Massachusetts had an ordinance preventing the distribution on any street of a placard, hand-bill, poster or advertisement of any description. The appellants were distributing in a peaceful manner upon the streets of the city leaflets protesting against the manner of the administration of the state unemployment insurance. They did not throw any of the leaflets on the sidewalks or scatter them, but handed them to individuals. The Court reannounced the rule stated in the case of *Lovell v. Griffin,* but took occasion to use the following language:

> ". . . Frauds may be denounced as offenses and punished by law. Trespasses may similarly be forbidden. If it is said that these means are less efficient and convenient than bestowal of power on police authorities to decide what information may be disseminated from house to house, and who may impart the information, the answer is that considerations of this sort do not empower a municipality to abridge freedom of speech and press.
>
> "We are not to be taken as holding that commercial soliciting and canvassing may not be subjected to such regulation as the ordinance requires. Nor do we hold that the town may not fix reasonable hours when canvassing may be done by persons having such objects as the petitioner. Doubtless there are other features of such activities which may be regulated in the public interest without prior licensing or other invasion of constitutional liberty. We do hold, however, that the ordinance in question,

as applied to the petitioner's conduct, is void, and she cannot be punished for acting without a permit."

In the case of *Thornhill v. Alabama,* decided April 22nd, 1940, the Court had under consideration a statute of the State of Alabama which would prevent what is known as peaceful picketing. The appellant was convicted thereunder and the Supreme Court of the United States in reversing the case, held that the statute interfered with freedom of speech, using the following language:

> "First. The freedom of speech and of the press, which are secured by the First Amendment against abridgment by the United States, are among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment against abridgment by a state.
>
> "The safeguarding of these rights to the ends that men may speak as they think on matters vital to them and that falsehoods may be exposed through the processes of education and discussion is essential to free government. Those who won our independence had confidence in the power of free and fearless reasoning and communication of ideas to discover and spread political and economic truth. Noxious doctrines in those fields may be refuted and their evil averted by the courageous exercise of the right of free discussion. Abridgment of freedom of speech and of the press, however, impairs those opportunities for public education that are essential to effective exercise of the power of correcting error through the processes of popular government."

In the case of *Carlson v. State of California,* decided by the Supreme Court of the United States April 22nd, 1940, there was presented for review an ordinance of Shasta County, California, intended to prevent picketing and prohibit the carrying or displaying of any banner, badge or sign, in front of any place of business. The Court held that the ordinance violated the First Amendment to the Constitution of the United States, using the following language:

> "The sweeping and inexact terms of the ordinance disclose the threat to freedom of speech inherent in its existence. It cannot be thought to differ in any material respect from the statute held void in Thornhill's Case. The carrying of signs and banners, no less than the raising of a flag, is a natural and appropriate means of conveying information on matters of public concern. *Stomberg v. California,* 283 U. S. 359, 75 L. ed. 1117, 51 S. Ct. 532, 73 A.L.R. 1484. For the reasons set forth in our opinion in Thornhill v. Alabama, supra, publicizing the facts of a labor dispute in a peaceful way through appropriate means, whether by pamphlet, by word of mouth or by banner, must now be regarded as within that liberty of communication which is secured to every person by the Fourteenth Amendment against abridgment by a state.

"The power and duty of the State to take adequate steps to preserve the peace and protect the privacy, the lives, and the property of its residents cannot be doubted. But the ordinance in question here abridges liberty of discussion under circumstances presenting no clear and present danger of substantive evils within the allowable area of State control."

A very interesting case is that of *Cantwell v. Connecticut,* decided May 27th, 1940, reviewing a statute of the State of Connecticut prohibiting the soliciting of money, services or any valuable thing for any religious or charitable cause from other than a member of the organization for whose benefit such solicitation is had. The facts established that the appellants were engaged singularly in going from house to house in New Haven, Connecticut. They were equipped with a bag containing books and pamphlets on religious subjects, a phonograph and set of records, each of which when played was a description of one of the books. The appellant asked of persons permission to play one of the records. If such person refused to buy the book, he solicited contributions towards the publication of such pamphlets as the listener was willing to make. They stopped two men in the street and received permission to play a phonograph record, and played one which gave offense to the religious beliefs of the listeners. The appellants were arrested and convicted for violating the statute and on appeal to the Supreme Court of the United States, the conviction was reversed, the Court using the following lauguage:

"In the realm of religious faith, and in that of political belief, sharp differences arise. In both fields the tenets of one man may seem the rankest error to his neighbor. To persuade others to his own point of view, the pleader, as we know, at times, resort to exaggeration, to vilification of men who have been, or are, prominent in church or state, and even to false statements. But the people of this nation have ordained in the light of history, that, in spite of the probability of excesses and abuses, these liberties are, in the long view, essential to enlightened opinion and right conduct on the part of the citizens of a democracy.

"The essential characteristic of these liberties is, that under their shield many types of life, character, opinion and belief can develop unmolested and unobstructed. No where is this shield more necessary than in our own country for a people composed of many races and of many creeds. There are limits to the exercise of these liberties. The danger in these times from the coercive activities of those who in the delusion of racial or religious conceit would incite violence and breaches of the peace in order to deprive others of their equal rights to the exercise of their liberties, is emphasized by events familiar to all. These and other transgressions of those limits the states appropriately may punish.

"Although the contents of the record not unnaturally aroused

animosity, we think that, in the absence of a statute narrowly drawn to define and punish specific conduct as constituting a clear and present danger to a substantial interest of the State, the petitioner's communication, considered in the light of the constitutional guaranties, raised no such clear and present menace to public peace and order as to render him liable to conviction of the common law offense in question."

In the case of *Minersville School District v. Cobitis,* decided June 30th, 1940, the Court held that a municipal ordinance requiring pupils in public schools to salute the National Flag was not an interference with the individual liberty of the pupil. The opinion was delivered by Mr. Justice Frankfurter, who used the following language:

". . . The ultimate foundation of a free society is the binding tie of cohesive sentiment. Such a sentiment is fostered by all those agencies of the mind and spirit which may serve to gather up the traditions of a people, transmit them from generation to generation, and thereby create that continuity of a treasured common life which constitutes a civilization. 'We live by symbols'. The flag is the symbol of our national unity, transcending all internal differences, however large, within the framework of the Constitution. This Court has had occasion to say that '. . . the flag is the symbol of the Nation's power, the emblem of freedom in its truest, best sense . . . it signifies government resting on the consent of the governed; liberty regulated by law; the protection of the weak against the strong; security against the exercise of arbitrary power; and absolute safety for free institutions against foreign aggression.' *Halter v. Nebraska,* 205 U. S. 34, 43, 51 L. ed. 696, 701, 27 S. Ct. 419, 10 Ann. Cas. 525. And see *United States v. Gettysburg Electric R. R.,* 160 U. S. 668, 40 L. ed. 576, 16 S. Ct. 427."

The Court has been equally as astute in protecting the right of a hearing and determination in an orderly, judicial proceeding.

In what is known as the *"Milligan Case",* 4 Wall. 2, Milligan had been arrested on order of a military commander in Indiana and tried in October 1864 by a military commission on charge of conspiracy against the government, giving aid and comfort to the rebels, inciting insurrection, and disloyal practice, and violating the laws of war. He was found guilty and sentenced to be hanged. He applied to the United States District Court for a writ of habeas corpus and that court certified the question to the Supreme Court of the United States. The Supreme Court of the United States set the sentence aside and held that so long as there were ordinary courts sitting in the state, competent to try the case, a military court was without jurisdiction. It is of interest to note that the opinion was delivered by Judge Davis, personal friend and appointee of Abraham Lincoln. The Court used the following language:

". . . No graver question was ever considered by this Court, nor one which more nearly concerns the rights of every American

> citizen when charged with crime, to be tried and punished according to law. . . . The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. Its provisions cannot be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism. . . . Martial rule can never exist where the courts are open, and in the proper and unobstructed exercise of their jurisdiction."

The case of *Morgan v. United States,* 304 U. S. 1 [1938], presented a case where the Secretary of Agriculture initiated an inquiry into rates to be charged by market agencies at the Kansas City stockyard upon the cattle under the Packers and Stockyard Act. The Secretary of Agriculture filed no complaint, advising the agencies of the Government's contentions in respect to the rates which would be initiated. An extensive inquiry was undertaken, comprehending 10,000 pages of oral testimony and 1,000 pages of statistic exhibits. The findings of fact were prepared by agents of the Secretary of Agriculture who had conducted proceedings, and were submitted to him. Suit was filed in the United States District Court to vacate the order made in pursuance thereof. It appeared that the evidence in the case had been taken before the Secretary of Agriculture took his office. He had not heard the oral argument, but it was said that he took the testimony home with him and read it and had conferences with the solicitors of the Department and officials in the bureau. The Court held that the order was void because it gave to the adverse parties no notice of the matters of the complaint and afforded no adequate hearing. The Court used the following language:

> "Congress, in requiring a 'full hearing', had regard to judicial standards,—not in any technical sense but with respect to those fundamental requirements of fairness which are of the essence of due process in a proceeding of a judicial nature. If in an equity cause, a special master or the trial judge permitted the plaintiff's attorney to formulate the findings upon the evidence, conferred ex parte with the plaintiff's attorney regarding them, and then adopted his proposals without affording an opportunity to his opponent to know their contents and present objections, there would be no hesitation in setting aside the report or decree as having been made without a fair hearing. The requirements of fairness are not exhausted in the taking or consideration of evidence but extend to the concluding parts of the procedure as well as to the beginning and intermediate steps."

In the case of *Chambers v. Florida,* decided January 12th, 1940, the court reversed the decision of the Supreme Court of Florida affirming the conviction with death sentences of four persons convicted of murder. Conviction was brought about largely by the introduction in evidence of alleged admissions of guilt on the part of the defendants, which the Court found were secured as a result of confinement and torture and extortion. The Court used the following language:

"We are not impressed by the argument that law enforcement methods such as those under review are necessary to uphold our laws. The Constitution proscribes such lawless means irrespective of the end. And this argument flouts the basic principle that all people must stand on an equality before the bar of justice in every American court. Today, as in ages past, we are not without tragic proof that the exalted power of some governments to punish manufactured crime dictatorially is the handmaid of tyranny. Under our constitutional system, courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are non-conforming victims of prejudice and public excitement. Due process of law, preserved for all by our Constitution, commands that no such practice as that disclosed by this record shall send any accused to his death. No higher duty, no more solemn responsibility, rests upon this Court, than that of translating into living law and maintaining this constitutional shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution—of whatever race, creed or persuasion.

"The Supreme Court of Florida was in error and its judgment is reversed."

Similar reversals were had in *White v. Texas,* decided May 27th, 1940, and in *Canty v. Alabama,* decided March 11th, 1940.

Such is the challenge of the Supreme Court of the United States to despotism, totalitarianism and government by brute forces.

I saw in a current magazine the other day a picture of a woman and her three children, standing on the grounds of the White House in Washington, taking photographs of the home of the President of the United States and its surroundings. Below the picture was printed a statement that the United States was the only remaining country in the world where such a thing would be permitted to take place.

In European countries, democratic institutions have been crushed beneath the heel of the dictator. The citizens are prisoners in their own land. Under our form of government, we not only enjoy a measure of liberty known nowhere else in the world but the Stars and Stripes furnish a refuge for Liberty driven from other countries.

What we know as the "American way of life" is threatened. We have lightly assumed that our liberties will go on forever without effort on our part, overlooking that they were established as a result of sacrifice and the shedding of blood and may be maintained only by the same effort.

Some weeks ago the members of the Bar held in Jackson a Lawyers' Institute devoted to discussion of questions of interest to the Bar. A very eloquent speaker, reviewing the development of the social consciousness

which has taken place in our country during the last few years, and the Acts of Congress passed in aid of the same, called attention to the fact that as a general thing members of the Bar had not been enthusiastic about such legislation and that this attitude on the part of the Bar deprived the American people and the Government of the best brains and the most zealous advocates of the rights of man in the developing the social security program. He pointed out that there were no lawyers in Russia and few in Germany.

However, Mr. Jackson, Attorney General of the United States, in a recent speech says that any weakening of civil rights is a reflection on the members of the Bar; that there are upwards of 160,000 lawyers in the United States, one lawyer for every 760 persons in our population; that the duty of maintaining these inalienable rights depends primarily upon the members of the Bar. They dominate in making laws. They alone have the right to serve as counsel in defense of persons whose liberties are jeopardized. He states that if the members of the Bar insist upon the maintenance and enforcement of all the liberties guaranteed by our Constitution, our institutions are safe. If the members of the Bar will, as they have in the past, stand in the trenches as the defenders of human rights, freedom will never perish from the earth.

Following his address, Mr. Watkins introduced Mr. Charles E. Dunbar, Jr., of New Orleans, Louisiana, as official representative of the American Bar Association. Mr. Dunbar's address follows:

THE PROGRAM AND SERVICE OF THE AMERICAN BAR ASSOCIATION TO THE PUBLIC IN IMPROVING STANDARDS FOR ADMISSION TO THE BAR

CHARLES E. DUNBAR, JR.

The American lawyer is a figure almost unique in history. Look where you will, in old history or in new, on the seven seas and all the continents, and you will find nowhere a legal profession organized, trained and employed like our own. Today there are at least eight hundred million people using legal systems and legal professions which deserve comparison with our own from the standpoint of complexity and organization. Nowhere in all this scene is there anything that really resembles the American lawyer.

In the first place, lawyers are relatively very numerous in this country. Almost everybody trained in government is a lawyer in the United States, and is licensed to practice in the main courts. We have one lawyer for about 850 people. Germany has a lawyer for about 4,000 people, on this basis, or only about one-fifth as many. France has a lawyer for about 4,500. The figures are a little elusive in Great Britain and Scotland, but, according to reliable information, there is approximately one lawyer for every 2,000 people. Our neighbors, Canada and Mexico, and our English relatives in Australia and New Zealand, do

not approach our own relative abundance. There seem to be more lawyers in the United States proportionately and also absolutely, than in any other country, past or present.

In the second place, our bar in the United States has been easy to enter, and until recent years has had only a relatively small amount of formal training, and very meagre educational standards have been required for admission.

I want to discuss with you briefly your problem and the problem of the American Bar Association in the field of improving minimum standards and requirements of general education and legal education for admission to the bar. As a member of the Council for many years, and as Chairman this year of the Section on Legal Education and Admissions to the Bar of the American Bar Association, it has been my privilege and duty to participate in this important and unselfish work that is being done by the American Bar Association in the interest of the public.

After careful consideration and debate, the American Bar Association, as you probably know, in 1921, adopted minimum educational standards for admission to the bar. The late Elihu Root was Chairman of the Section on Legal Education and Admissions to the Bar in 1921, and it was his Committee which presented and submitted our present American Bar Association standards. These standards suggest, as minimum requirements for every candidate for admission to the bar that: First, he shall have at least two years of satisfactory study in a college, or the equivalent; second, that he shall have successfully completed three years of study in an approved full-time law school, or four years of study in an approved part-time law school; and, finally, that after graduation, every candidate shall be subjected to an examination by public authority, to determine his character and fitness. An "approved law school" is a school which meets the minimum standards established by the American Bar Association, which, in their opinion, are necessary for a thorough and adequate legal training. These requirements are rather lengthy and involve both minimum qualitative and quantitative standards of legal education. The standards for an approved law school were adopted only after careful study and discussion, and all law schools seeking approval are inspected by expert representatives of the American Bar Association, and when they measure up to the minimum standards required for approval by the American Bar Association, they are then placed on the Approved List of the Association. I may say, in passing, that Mississippi has, in the University of Mississippi Law School, an excellent law school, which, for many years, has been on the Approved List of the American Bar Association, and is also a member of the Association of American Law Schools—an organization composed of the better law schools of the United States. There are now one hundred and eighty law schools in the United States, and of this number, one hundred and two schools have met the minimum requirements, and have obtained the approval of the American Bar Association. A considerable number of the schools, which have not secured approval, object to and have not met the mini-

mum requirements of the American Bar Association, because they are, for the most part, night schools, conducted for profit, and have little interest in fundamental standards of legal education. Compliance with the American Bar Association minimum standards naturally reduces the profits of such schools. I am happy to say, however, that many other night schools are sympathetic with our program and are anxious and willing to improve their standards, and most of these schools are making rapid progress and, in a few years, will secure our approval.

The rapidly growing nation-wide requirements of higher educational standards for admission to the bar in the public interest is conclusive evidence of the splendid vision and fine public service of the American Bar Association's activities and a recognition of the value of standards by most of the states of the Union. Since the American Bar Association's program in behalf of minimum educational standards was begun in 1921, forty-one of the forty-eight states of the Union, as well as the District of Columbia and the Territory of Hawaii, require at least two years of college education as an essential part of a lawyer's training. Three states, Pennsylvania, Delaware and Kansas, have rules which have resulted in the obtaining of a college degree by most candidates. Forty-two states require a minimum of three years of law study, and about half of the states are now refusing to recognize, as qualifying for the bar examination, study in an unapproved law school.

The progress during the last eighteen years in the improvement of bar examinations has been equally encouraged in most jurisdictions. One of the outstanding accomplishments in the last decade has been the organization by our Section on Legal Education of the National Conference of Bar Examiners and its growth into an important instrumentality for the improvement of the bar examinations and for the general raising of legal educational standards.

Although astounding progress has been made in the past, I feel sure it is unnecessary for me to tell your Association that the most difficult part of our work remains in persuading the few remaining states to adopt our standards, because in some of these states our program and objectives have been strongly and consistently opposed.

Let us for a moment analyze and discuss some of the arguments and objections that have been urged against the American Bar Association minimum educational standards for admission to the bar.

In the first place, it is often said that in a democracy everyone has a "right" to practice law, and that the requirements of a minimum of two years of college and three years of law school study, and a bar examination, interferes with and limits the rights of individual citizens. I think it can be fairly stated that this argument is a selfish one and has been generally repudiated by the public and the American bar. The reasoning and policy of the American Bar Association, in this connection, has been clearly and briefly stated by our Section on Legal Education: "The so-called 'right' of any individual to practice law is not a right, but

a privilege which may only be exercised upon compliance with certain requirements laid down for the protection of the public. Whether a particular rule bars out certain individuals who may be unwilling or unable to comply with is provisions is of secondary importance to the question of whether the rule is of benefit to the people who will need legal service or political guidance. This is often forgotten. In considering requirements for admission to the bar, one test stands out as first and foremost. 'Is it in the public interest?' Lawyers are officers of the court. They constitute part of the machinery through which justice is administered. What qualifications they should have must depend on what requirements will result in the best service to the public, both in their private capacities as lawyers, and in their public capacities as government officials.

"Primarily, then, we must answer, not whether some deserving boy may find it more difficult (he will not find it impossible if he has character, ambition and energy) to gain admission to the bar, because he must first secure some college education, but rather whether the public will be better served if every lawyer is required to have an adequate general education as well as technical training in the study of law. Obviously, the clients who are served by lawyers will be benefitted if those lawyers are men who have a wide general knowledge as well as a good legal training. The more effective the training, both in the college and in law school, the better lawyer a given individual will become, but we cannot demand that every lawyer should be a college graduate and hold a degree from the best 'blue ribbon' law school in the country. As a matter of fairness, and in the interest of some practical achievement in the field of improving the standards of legal education, we are only warranted and, in fact, from time to time, we can do no more than to lay down reasonable minimum requirements and standards, which include the amount of college and legal education which is readily obtainable and reasonably essential."[1]

The late Chief Justice Taft, when he was supporting the adoption of the American Bar Standards in 1921, said:

> "It goes without saying that the best preparation for the successful study and practice of such a profession is a wide and thorough general education. The best general education is to be had at our colleges and universities. There one studies literature, language, mathematics, science, history, economics and government. There one is subject to daily, monthly, semi-yearly or yearly examinations of what he has studied. He is trained to arrange his mental machinery by special review and rapid summary of the study of a considerable period to present it to his examiner in a comprehensive, accurate and logically digested form. He will not remember it all permanently, but he will carry enough largely to widen his general information, and what is more important he will by his constant practice in preparing for

1. Quoted from *"Why Higher Standards of Legal Education"*, published by the American Bar Association's Council on Legal Education and Admissions to the Bar, September 25, 1937.

such a review and examination acquire a facility in the rapid acquisition and analytical digestion of the infinite variety of subjects he may have to be familiar with in advising a client or conducting a litigation for his rights. Such facility will often mean the difference between his failure and his success. For no learned profession, therefore, is a thorough and general college education more necessary than for that of the law.

"I am not saying that a man may not acquire such an education and preparation without having the benefit and opportunity of a college or university course. There are geniuses in application, men of native intellectuality and ability and high ambition who can mount obstacles and fit themselves for anything to which their will would carry them. But they are rare exceptions. We have to deal, in laying down rules for the required preparation for a profession, with the average man who wishes to practice it, in order that society may be served in a most important capacity by competent practitioners. We should not be governed in laying down such rules by the needs or ambition of those who would become lawyers. The safety of society, and their useful aid to society are the prime considerations. If a man cannot secure the preparation which an average man should have, to be a lawyer, then he should seek some other avenue of livelihood. We have all the lawyers we need now, and there will be no dearth of them, however thorough the preparation insisted upon. The illustrations of the evil that may be done, by admitting to a learned profession of importance to the community one not properly prepared, are perhaps easier to find and elaborate in the case of physicians and surgeons than in that of the lawyers; but the evil though not as plain is just as great in the injury done to individuals and society."

During the same debate in 1921, in discussing not only the cultural value, but the influence on character of a college life and training today, the late Elihu Root said:

"I know of no way that has been suggested to assure to any considerable degree the achievement of culture and character on the part of aspirants to the Bar except this suggestion that they should be required to go to an American college for two years and mingle with the young American boys and girls in those colleges, be a part of their life, and learn something of the spirit of young America in its aspirations and its ambition, seeking to fit itself for greater things. That is what they will get in an American college. . . .

"I know American colleges, and I have seen for sixty years the plain boys trudging over the hills to get an education in order that they might climb the heights of fame and fortune, in order that they might slake the thirst for learning, in order that they might make themselves something bigger and better; and I say

to you there is no better democracy in this world than the democracy of the American college. And that is the great thing that is learned there; for in it the youths pass the most formative years of their lives before the spectacle of men who are happy in the pursuit of learning and of literature and of science—happy in their growth and achievements—without money, without display, without ostentation. There are today over 600,000 young Americans in these institutions. And can you tell me that a boy who is worth his salt, who is fit ever to have a client, who has the character that will enable him to assert and maintain rights, cannot find his way to one of these institutions and spend two years there? If he cannot, he does not belong to the bar. . . .

"One concluding thing: What is all this for? What is the vital consideration underlying all the efforts of the American bar? We are commissioned by the state to render a service. What we have been talking about is the way of ascertaining or of producing competency to render that service. Upon what standard of judgment shall we consider and attempt to do that? Of our rights? Of the rights of the young men who come here crowding to the gates of our Bar? It is a privilege to be passed around, a benefit to be conferred? Is there any doubt that that standard is inadmissible? Do we not all reject it?

"The standard of public service is the standard of the Bar, if the Bar is to live; the maintenance of justice, the rendering of justice to rich and poor alike; prompt, inexpensive, efficient justice.

"Vastly complicated our practice has become. The enormous masses of statutes and decisions have made it so. Twelve thousand to fifteen thousand public decisions of courts of last resort in a year! Twelve thousand to fifteen thousand more statutes from our Congress and legislatures in a single year. A wilderness of laws and a wilderness of adjudications that no man can follow, requiring not less, but more ability; not less, but more learning; not less, but more intellectual training in order to advise an honest man as to what his rights are and in order to get his rights for him. . . .

"Not only has the practice of law become complicated, but the development of the law has become difficult. New conditions of life surround us; capital and labor, machinery and transportation, social and economic questions of the greatest, most vital interest and importance, the effects of taxation, the social structure, justice to the poor and injustice to the rich—a vast array of difficult and complicated questions that somebody has got to solve, or we here in this country will suffer as the poor creatures in Russia are suffering because of a violation of economic law, whose decrees are inexorable and cruel. Somebody has got to solve these questions. How are they to be solved? I am sure

we all hope they will be solved by the application to the new conditions of the old principles of justice out of which grew our institutions. But to do that you must have somebody who understands these principles, their history, their reason, their spirit, their capacity for extension, and their right application. Who is to have that? Who but the Bar? Is the Bar giving it? Is the Bar getting it? The public's judgment is that it is not.

"Conditions have so changed from Abraham Lincoln's day that the problem is different and the opportunity is different. Not only that, but the material is becoming different. . . .

"The old practice of Lincoln's time, under which a young man studied in a law office, got a little coaching, a little steering from the members of the firm, read a few fundamental books and became educated as a lawyer in that way, has passed. Here and there in the country districts it may remain, but by and large it has gone. That pathway is no longer open to the young man who is seeking admittance to the Bar. In its place has come the law school; and in place of that assurance which the old lawyer in whose office a boy has studied could give to the court upon his personal knowledge, has come the Bar examination."

I have selected Mr. Root and Chief Justice Taft to quote from on this subject because their great wisdom, good judgment and patriotic interest are universally recognized. I could go on and call and quote from leader after leader, as witnesses in support of the American Bar Association program, until I had exhausted all of the familiar names, if only time permitted.

We have already referred briefly to the second suggestion and argument often made that many of our leading and successful lawyers of fine scholarship and extraordinary ability have never had either a college or law school training. It is true that in almost every community, we can point to some lawyers of conspicuous ability of this type. The exceptions really prove the rule, because these extraordinary men of fine intelligence, ambition and ability, who have laboriously and carefully trained themselves, are the exceptions, and since minimum standards of preliminary education were not necessary for them is no argument for letting down the bars and subjecting the public to a multitude of average individuals who are not so endowed by nature, and who will enter the practice inadequately trained and equipped to perform proper legal services, either for their clients or the public.

No one would suggest today that because of the existence of certain exceptional men and geniuses in every state and community that every one therefore should be permitted to practice medicine without any preliminary training or educational requirements, and that the public is not entitled to be protected by minimum educational requirements in the field of medicine against the multitude of average men and women, simply in order that the exceptional few may not be inconvenienced or required to obtain such education and training. Although often it seems

to be forgotten, the law is and should be a learned profession, and minimum requirements as to general education and specialized training in the law are essential for the protection of the public.

Closely interwoven with the "extraordinary and exceptional self-made lawyer argument" is the popular "Abraham Lincoln or poor boy argument". This argument is that many worthy poor boys may not be able to become lawyers if they are compelled to have the equivalent of two years of college education and to go to a law school. Abraham Lincoln is the typical example of this argument. In the first place, Lincoln not only did not go to college or law school, he never even went to high school. To be logical, we should not require a high school education if we are to give every poor boy the unqualified right and unrestricted privilege to practice law.

There are many explanations and replies to the Abraham Lincoln argument. I will only briefly reply to a few. In the first place, exceptional men of the Lincoln type in their rise to power and success have had to overcome obstacles far greater than those which are involved in seeking a good education today. They educated themselves and, through the hardships which this involved, their characters were strengthened and their determination to succeed was increased. Moreover, in Lincoln's day there were only very few colleges and law schools in existence in the country, and only the very rich could send their sons great distances to these private institutions. In fact, most of our self-made leading lawyers today who belong to the older generation can recall how limited and expensive were the educational facilities during their youth and school days. Today, however, this has all changed and no such problem confronts the able, energetic and ambitious boy or girl who desires to be a lawyer. Today, approximately fifteen hundred colleges are spread through the length and breadth of our land, and they are educating and training over a million students. It has been estimated that approximately two hundred thousand of these college students are making their own way through college and many thousands of others are largely supporting themselves. One need only glance at the multitude of college catalogues to see the long list of scholarships and large amount of money available to poor boys and girls who can qualify by ability and student work for these scholarships, gifts and privileges. Today the facts demonstrate that it is no longer true that an able, energetic and ambitious poor boy or girl who can qualify on the basis of merit cannot obtain at least two years of college education and a law school training. In fact, Abraham Lincoln and a great number of our older, successful, self-made lawyers, if they were boys today, would have had a college training, and, in passing, it is interesting to note that Abraham Lincoln thought so much of the necessity and desirability of a college and law school training that he sent his boy both through college and law school. It is also important to note that it is generally understood that at least two of the Justices of the Supreme Court of the United States were poor boys who, though hard work and deserved scholarship assistance, obtained college and law school degrees.

Finally, an important consideration from the standpoint of the individual involved, which is seldom emphasized, is not how unfair it is to someone not to give him a license and let him become a lawyer in some easy way, but how terribly unfair it is to him to permit him to become a lawyer in some easy way.

It is not only important to require proper training and qualifications for the admission of the lawyers of the future for the protection of their clients and in the interest of the improvement of the administration of justice, but there is a further public interest to be served. Law has long been recognized as the best training for politics. Out of our thirty-one Presidents, twenty-four have belonged to the legal profession. Out of fifty-six Secretaries of State, fifty-three have been lawyers, as have fifty-two of the sixty-three Secretaries of the Treasury. Twenty-seven signers of the Declaration of Independence out of fifty-six were attorneys. About sixty per cent of the House of Representatives and seventy per cent of the Senate have been members of our profession in recent years. Half of our State Governors are lawyers. In our state legislatures, the percentage runs somewhat less, but it is the lawyers who lead. These facts must always be kept in mind, not only as a reason for seeing that our profession is representative of every part of our population, but also as a reason for admitting only those who are qualified from an educational standpoint and the standpoint of character to meet these high public obligations and duties.

In the field of medicine, strange to say, the American public seem to feel that it is vital and essential that a boy or girl should be required to have both a minimum amount of college training, as well as training in a medical school, before being permitted to practice medicine and yet the American public have not yet full recognized the importance of requiring a preliminary training for admission to the bar. For example, in all but two states at least awo years of college study are required for the practice of medicine, whereas, there are seven states in which no college study is required for admission to the bar. In forty-two states, in order to take an examination for a doctor's license, all candidates must be graduates of a medical school approved by the American Medical Association, whereas, there are only twenty-three states requiring law school study in a school approved either by the American Bar Association or the Supreme Court of the state. It is true that there are forty-seven states requiring some law study, or its equivalent, varying from two to three years. Unfortunately, there are three states in which no period of legal training is required. The facts I have briefly referred to show that the American Medical Association has made greater and more rapid strides than the American Bar Association in convincing the public that higher standards of college and professional education should be required in the public interest.

It should be humiliating to forward-looking patriotic members of our bar associations who are pleased to think of our profession as a learned profession, that in a few states admission to the bar is not considered as requiring reasonable training, and, so far as education is concerned,

is placed on the same level as embalmers, beauticians, barbers and chiropodists, and many other callings which we are accustomed to think of as requiring somewhat less mental achievement than the practice of law.

Mississippi, the state of my birth, and Louisiana, my adopted state, in which I now live, are among the seven states which have not yet adopted even the minimum of two years of college study as a requirement for admission to the bar. I am so circumstanced that I can properly and appropriately speak to my brother lawyers in Mississippi on this subject of improving the standards of legal education, because I was born in Mississippi, and the state is very dear to me, and the happy memories of my boyhood are ties which cannot be broken. As for my adopted state, I am hopeful, and have reason to believe, that Louisiana will require the American Bar Association standards before the end of next year. May I not hope that your organization will actively interest itself in having the American Bar Association standards adopted in Mississippi.

Your Association and the American Bar Association have done an enormous amount of important work in the public interest, including the improvement of procedure, and working for legislation to correct inequities and improve our local and federal law. In final analysis, all of this work is incidental to the fundamental purpose for which our local bar associations and our American Bar Association exist, and that is to maintain and improve the standards of education and the professional character and conduct of the lawyers of America. This is the fundamental job of our Association and the American Bar Association. If we are to do our duty in properly serving the public in improving the administration of justice and preserving democratic constitutional institutions, we must work continuously for the improvement of legal education and professional character, and the efficiency of our admission process. Only in this way will the bar of the future be able to meet the heavy burdens of responsibility which will surely confront it in this new and difficult era of our Republic.

The meeting adjourned for the morning.

THURSDAY, JUNE 27, 2 P.M.

General J. N. Flowers acted as Presiding Officer.

The following resolution, introduced by Mr. W. S. Welch, was adopted:

BE IT RESOLVED THAT:

In appreciation of his very great service to the jurisprudence of the English speaking people and the contributions he has made to the literature of the law, Mr. Justice William Renwick Riddell, Senior Justice of the Supreme Court of Ontario, Appellate Division, is hereby made an honorary member of the Mississippi State Bar.

BE IT FURTHER RESOLVED:

That the Secretary be and she is hereby instructed to so advise Mr. Justice Riddell.

The Chair then introduced Dean T. C. Kimbrough of the University of Mississippi Law School for a report upon the activities of the Law School.

SOME PRACTICAL WORK DONE BY STUDENTS IN THE UNIVERSITY OF MISSISSIPPI LAW SCHOOL

T. C. KIMBROUGH

There apparently exists in the minds of many members of the Bar a feeling that law schools in general devote too much time to teaching the doctrines and theories of the law and too little to the practical matters which, of necessity, will confront the young lawyer in doing his work immediately upon being admitted to the Bar.

It is fully recognized that there is more or less of a gulf between the law classroom and the actual practice of the law. It would be difficult to bridge entirely this gulf and turn into the practice seasoned lawyers fully armed and panoplied for the battle in law office and courts.

A systematic effort is made in the University of Mississippi Law School to stress as much of the practical in subjects that lend themselves to it, as possible. We hope that this will in some measure prepare the student to pass from the law school into the practice with a considerable degree of confidence, because of his training, and enable him to handle simple matters brought to him by clients with but little embarrassment.

I thought you might be interested in the detail or outline of some of the practical work required to be done by our students. The work to which I invite your attention is a part of the regular curriculum of this school.

First, the Law School gives a course in Common Law Pleading and Procedure, and in addition thereto a comprehensive course in local Mississippi Pleading, Practice and Procedure based upon the statutes and court decisions of the state. This course supplements the Common Law Pleading course. It is necessary also to give some consideration to the common law in the Mississippi Pleading course, as the practice and procedure in Mississippi is a blend of statute and common law.

Each individual student is required to prepare every possible form of pleading that might arise in an actual case in the circuit courts of the state, together with the necessary material motions incident to the ordinary trial, including motions to amend, for bills of particulars and for continuances. These pleadings and proceedings are submitted to the professor, who corrects, criticises, and grades them. To particularize, the pleadings consist of declarations, petitions, abatement pleas, special

pleas in bar, demurrers, general issues, general issues with notice of affirmative matter, replications, rejoinders, surrejoinders, etc., to surrebutter. In addition to the above, the student must prepare all necessary and material court orders incident to the actual trial. He is required to prepare interlocutory and final judgments in jury trials and in trials where the jury is waived. The student is also required to prepare all forms of ordinary process, such as writs of summons and subpoenas with the required officer's return thereon.

A rigid examination is given on these forms and the student is required to pass the examination with a high grade before he will be given any credit for the course.

A careful study is made of the Code chapters on Circuit Court, Provisions Common to Courts, Court Reporting, Attachment, Garnishment, Judgments, Mandamus, Quo Warranto, Process, Replevin, Unlawful Entry and Detainer, Juries and Justices of the Peace, together with some other chapters. Along with the study of the sections under the foregoing chapters, important court decisions construing each section are studied and discussed in class.

The above course is required. Four hours credit toward graduation is allowed on the course.

Second, a thorough course is given in the subject of Chancery Practice.

As foundation for the work we use Griffith's *Chancery Practice,* supplemented by code sections and Mississippi cases, showing the principles underlying and the essentials and substance of the forms of pleading in chancery.

Students are given cases and required to prepare the bills, cross bills, demurrers, pleas and answers—all the pleadings, throughout a case in equity, as they must do when they engage in practice. This includes such actions as partition of land, divorce proceedings, injunctions, interpleader, appointment of receivers, bills to set aside fraudulent conveyances and attachments in chancery, as well as other actions involving questions of equity generally.

The students prepare the various decrees in chancery.

In addition, they are given moot court cases for trial. They prepare all of the pleadings, introduce evidence and try the causes, arguing them to the instructor, who acts as judge.

In this way they get a practical knowledge of the preparation of the pleadings, the law and the facts of a cause in chancery, learn how to proceed and try the case in an orderly manner and then prepare the proper decrees.

Third, a comprehensive course is given on Wills and Administration.

In addition to a study of the substantive law on the subjects, the

students are required to prepare and draft wills of various kinds, prepare petitions for probate thereof, together with orders admitting such documents to probate, the inventories of the estate, reports of appraisers, the accounts of the executors in courts, notice to creditors, and all of the proceedings in equity to prove and have admitted to probate wills and administration under the wills of the estate. Time has not yet permitted (but it is hoped to find the time in the future) for preparation of all pleadings and conduct of the trial for contesting the wills.

The related procedure for issuance of letters of administration on estate of intestates, notice to creditors, administration on the estate, accounts, etc., is followed through by the class. All of this, in both instances, testate and intestate, is mainly in accord with requirements of the laws of Mississippi.

Fourth, the Criminal Law Course, which is a required course for all first-year men, is a four-hour course. Half of the course is devoted to substantive law and half to procedural aspects. The students are required to draft indictments, affidavits for accusing offenders, and various writs papers and forms for the arrest, for summoning the grand jury, for charging the grand jury, for legal arrest of offenders, for selection and empanelling of grand and petit jurors, for commitment of guilty defendants, for instructions by the courts, and for verdicts of the jurors—all papers necessary for charging, arresting, trial and commitment of offenders, including court instructions. The actual trial work is done in the moot court. This is in accord with and under Mississippi requirements.

Fifth, a course is given in brief-making, which consists of lectures and actual laboratory work. Each student is required to prepare a trial brief upon a set of facts given in a supposed case to be tried in the circuit court. Ample authority is required to be cited in the brief. The brief must be in accord with the standard form for such briefs. The preparation of an appellate brief is also required of each student. The form of this brief must be in accord with suggestions made by the Supreme Court of Mississippi. The trial and appellate briefs, so prepared by the student, are criticised by the professor and all necessary corrections made.

Grades in the course depend almost entirely upon the quality of the brief. The following elements are considered in determining the grade: form, accuracy and completeness of citation, directness of authority, selection of strong jurisdictions and courts for authority, reasoning, organization, and English.

Sixth, the following important practical work is required of students in the subject of Titles: Each student is required to prepare all papers and documents for conveyance of titles to real property, including deeds, trust deeds and their foreclosure (including trustee's notice of sale, and publication thereof, conducting the sale and the trustee's deed), eminent domain proceedings, and all papers and documents of every kind used in conveyance in Mississippi of title to real property. Supplement-

ing this, there is a course of one hour in preparation of abstracts of title. The student actually does the abstract work, using the records of Lafayette County, under the direction and supervision of a professor who is skilled in this work from long, practical experience. The student, as a result of the actual practical work he has done in the school in the making of an abstract, is prepared to do reasonably efficient work as an abstractor as soon as he comes to the Bar. He is taught to use a form which has met the approval of established firms long engaged in this line of business.

Seventh, a course is offered by this school and required of all seniors which consists of actual practice and conduct of a complete, litigated cause. This particular required work is limited to the conduct of a law suit of general civil jurisdiction on the common-law side. All students are required to take every step incident to the institution and prosecution of this trial, including the preparation, issuance, return and filing of process, the preparations of the original declaration, demurrers, motions, bill of particulars, answers, instructions, motions for new trial, verdicts, and final judgments, together with the presentation, in question and answer form, from actual witnesses and before an actual jury, of the entire evidence in that cause.

A trial brief is also required and, in fact, every step that may come up in the actual trial of a cause is taken. The trials are had before either actual judges, practicing lawyers, or members of the faculty, and all are conducted under the supervision of a regular member of the faculty. No appellate court briefing or practice is done in the course, nor is there any chancery or criminal practice, since these branches are handled in other courses. The practice is based upon the rules of court and practice prevailing in the State of Mississippi and while no specific credit hours are allowed toward graduation, it is, as stated, required of all graduates and has been a part of the curriculum of this school for at least thirty years or more.

Eighth, the same sort of practical work is incorporated into many of the other courses. Thus, in the course of Corporations, the students are required to go through the actual process of incorporating and organizing a corporation; in the course in Income Taxation the students are given problems and required to prepare tax returns of the various kinds; and in the course in Federal Procedure, appropriate forms of pleading under the Federal Rules of Procedure are prepared. To a certain extent, work of a similar nature is done in courses such as Contracts, Bills and Notes and others.

Ninth, in order to meet a need which has recently arisen, we have instituted this summer and plan to offer during the regular year, a course in Oil and Gas. Leases of mineral interests are carefully studied, and the students are made to understand the purposes for which the various phrases and covenants are inserted and to be able to discriminate between good and bad phraseology of such covenants.

In short, it is the earnest desire of the Law School of the Univer-

sity of Mississippi to send out to the Bar only such men as are well-rounded and as well equipped as training in school can make them for all phases of work which may arise in the actual practice. We are striving eagerly to attain this result, and are constantly adjusting and modifying our curriculum, the subject-matter of our courses and our methods of teaching in an effort more nearly to reach this goal.

The Chair then presented Mr. Leon F. Hendrick, who introduced the next speaker, Mr. Francis S. Harmon. Mr. Harmon was formerly a resident of Mississippi, but is now Assistant to the President of the Motion Picture Producers and Distributors of America, Inc., New York City

A MISSISSIPPI LAWYER LOOKS AT HOLLYWOOD

Francis S. Harmon

When Queen Dido asked Aeneas to describe the flight from Troy and his subsequent wanderings, he replied: "You have asked me to compound my grief!" When the distinguished president of our bar association extended me your cordial invitation to speak on this program, he gave me a cherished opportunity to "compound my joy", for in one brief day in Jackson I am clasping the hands of good friends and acquaintances whom I would not otherwise have been able to see in a month of wandering to and fro through Mississippi.

I count it a privilege indeed to talk intimately with my friends and fellow-Mississippians about the work in which I am now engaged, for I am well aware of the fact that when I resigned from an executive position with the International Y. M. C. A. to "Go Hollywood," a good many people looked askance at such an apparently extraordinary shift. I went to Rochester, New York, to address the Rotary Club soon after assuming my present position. The presiding officer, who happened to be president of the Y. M. C. A., said: "This is the first time Francis Harmon has been to Rochester since he 'went Hollywood'. I don't know whether he has gone up or gone down in the world, but I am willing to give him the benefit of the doubt and tell you that he is a little nearer to the stars!" I rest my case on his summation.

My subject is "A Mississippi Lawyer Looks at Hollywood". Let me say at the outset that there is no such place, legally speaking, as Hollywood. Hollywood is only a geographical expression. Between 1903 and 1910, there was a municipal corporation of that name, but you will never guess what killed Hollywood—*not enough water!* Hollywood merged with Los Angeles in 1910 and connected its water mains with the city supply. Few film studios were in Hollywood then and today they are scattered over a wide area—Culver City, Beverly Hills, Burbank, the San Fernando Valley—but throughout the entire world, the one word "Hollywood" has become synonmous with motion pictures.

Some of our harshest critics refer to Hollywood as "the only insane asylum in the world run by the inmates". There are days when even members of the industry are inclined to accept that as more or less accurate! Some of our more friendly critics regard Hollywood as a sort of "Graustark of the Pacific"—a mythical kingdom of opera bouffe pictures and people—a never-never land of "escapism", of fairy tales and dreams. There is some truth in that appraisal also.

I think of Hollywood primarily, however, as an international center of art and of artists—a workshop and studio for creative people from all nations and races of the world—actors, musicians, writers and technical wizards, whose combined efforts under clever and expert direction, backed by substantial financial investments, produce entertainment for multiplied millions—young and old.

Hollywood is also the center of a great American industry—one of this nation's leading export businesses. Those studios are nothing less than huge manufacturing plants, representing an investment of approximately $100,000,000, some of which turn out half a million dollars worth of product per week.

The gross business of the American motion picture industry is a billion dollars a year, yet the average cost of admission to a movie is 23 cents, of which 15 cents remain in the town where the theatre is located, while 2 and a fraction cents go to the wholesaler (distributor), and the remaining 5 and a fraction cents go to the manufacturer (the producer).

So when I tell you that Samuel Goldwyn, for example, spent $1,500,000.00 in making "Dead End"—that great epic of the city slums—this is just another way of saying to you that he gambled a million and a half dollars on the belief that between eighteen and twenty million people at 5¾ cents apiece would repay him for his negative cost. I do not know of any other business where the entire investment is made before a single penny comes back.

When Henry Ford changed from "Model T" to "Model A", he spent millions in retooling his plant, but he did not go on and produce all the "Model A's" he ever expected to sell before the first "Model A" was on the street. When David Selznick had put four million "on the barrel head" as the cost of "Gone With The Wind", all he had to show for this huge investment was 24 cans of negative, and he did not actually know whether people would like it or not, for he had not then received a single dollar from its exhibition. The fact that the picture's grosses are now breaking all records simply means that he guessed right. Public taste is fickle. Tomorrow some producer may spend other millions and lose most of it when the picture is played because he guesses wrong.

You know, of course, that the film business depends on volume. Eighty-five million people in this country and one hundred thirty-five million abroad (before Europe's current war commenced) saw Hollywood pictures each week—about one-ninth of the human race!

The real reason, therefore, why I accepted the call from Will H. Hays three years ago to become his executive assistant was the fact that after going to Hollywood and seeing what was being done, and studying all angles of the problem, I convinced myself that here was a tremendous force—a new art form—a new entertainment medium—vitally influencing the *mores* of the whole human race, and here was an opportunity knocking at my door to play a constructive role.

An old shoemaker, when asked what his business was, replied: "My business is serving God, but I cobble shoes to pay expenses." Your business and my business today is to serve God and serve this nation, whether we are cobbling shoes, or practicing law, or tilling a farm, or running a store, or working in motion pictures in order to pay expenses. My real business is still the same that it has been since the time long ago when I dedicated my life to serving God and my fellowmen.

As I survey the present world situation, I believe that we need more than anything else to rekindle that spirit of sacrifice which made America "a great ideal in the onward march of civilization." There is a scarlet thread of sacrifice which runs through this whole universe. Our forebears created this nation through blood and tears and prayers, and handed down cherished liberties to the individual, which are our priceless and indivisible heritage.

I glory in the opportunity which we enjoy through law, through government, through journalism, through radio and motion pictures, to make them all more constructive influences in our national life.

I have not time to go into the history of the motion picture this afternoon. Suffice it to say that just one hundred years ago, the Frenchman, Daguerre, first captured light on a photographic plate. Just fifty years ago, Edison, the American, gave a demonstration of his kinetoscope—the motion picture projector. Twenty-five years ago, as a student at the University of Virginia, I saw the "Birth of a Nation", the feature film which ushered in the art industry as we know it today. Now we have "Gone With The Wind" in technicolor, with sound, with dialogue, with a special musical score written by a composer from Vienna.

In these four items you have dramatic proof of the fact that no story written for the screen is half so interesting as the story of the screen itself. The modern motion picture projector is indeed Aladdin's wonderful lamp, bringing to us today an unbelievable variety of entertainment, information and inspiration.

As a lawyer speaking to lawyers, let me merely mention some of the obvious legal questions which confront the industry daily. You know, of course, that our basic material is copyrighted product—novel, stage plays, short stories, biographies, and original scenarios. I hardly need to remind you that each completed film is copyrighted and that each exhibition in this country or abroad is licensed under one of the fifteen million license agreements executed annually.

Furthermore, each piece of music in a film is copyrighted, and if recorded on a film by a unionized orchestra, there is certainly a stipulation in the contract prohibiting use of that sound track a second time unless payment is made as if another orchestra had been employed.

Of course there are the numerous statutory regulations governing hours, wages, collective bargaining, employment of minors, safe place to work, which confront all business today.

The so-called "Hays Office" is a voluntary trade association incorporated in 1922 under the laws of the State of New York as "Motion Picture Producers and Distributors of America, Inc.".

I wish time permitted a comprehensive review of various departments —*The Advertising Advisory Council,* which in 1939 in the administration of the Advertising Code passed upon the suitability of 105,993 photographs ("Stills"), 12,386 different advertisements, and 509 completed Press Book Campaigns; the *Conservation Department,* which supervises safety measures in exchanges, handling enough film each day to belt the earth at the Equator; the *Title Registration Service,* which has more than 40,000 motion picture titles on file and passes daily upon the suitability of new titles submitted; the *Community Service Department,* which is working with civic groups across the country to stimulate greater interest in and demand for films of the highest moral, artistic, literary, educational and cultural content.

Supply and demand have ever been regarded by Mr. Hays, ex-Governor Carl E. Milliken of Maine, the head of the Community Service Department, and their colleagues as "twin necessities". The story is both thrilling and inspiring, as it relates to the enlistment of public libraries, teachers of history and English, educators generally, and organized community groups in support of the increasing number of exceptional quality pictures which the organized industry has been releasing.

My own primary responsibility is with the moral suitability of the *supply* of motion pictures. This leads me to discuss briefly the most interesting experiment in voluntary self-regulation that I know about in American industry today.

The surface of this earth is divided between land and water. The more there is of one, the less there is of the other. Just so, the area of life is divided between the voluntary and the compulsory. The more there is of one, the less there is of the other. I am one of those Americans who believe that we should seek constantly, by every means within our power, to expand the area of the voluntary and to contract the area of the compulsory. In these complex times, the key to the success of representative democracy is in our ability to function effectively without so widening the area of the compulsory that we break down the system of individual initiative and group responsibility which we treasure. So I am glad to be a part of an industry which is seeking to shoulder its own burden of self-discipline. What I am about to discuss is another interesting example of what has been described as "Law-making by Private

Groups." (See *Harvard Law Review,* Volume 51, Number 2, at Page 37.)

Mr. Charles E. Dunbar, as spokesman for the American Bar Association, furnished another interesting example of the same process this morning when he outlined the steps which are being taken by the American Bar Association and by many State Bar Associations to improve professional standards. Adoption of these standards as prerequisite to the practice of law by the professional group to which we belong may well affect the legal rights of certain individual lawyers who may not agree with the majority. Similarly, when the farmers of Mississippi vote for crop limitation, the action of the majority binds the minority. Building restrictions included in deeds transferring real estate; fair trade acts legitimatizing resale price fixing by manufacturers; labor relations acts providing for the choice of exclusive bargaining agents by majority votes which bind dissident minorities—there are further illustrations of what is, in effect, "law-making by private groups".

Louis L. Jaffe, of the University of Buffalo, thus summed up the matter in the Harvard Law Review article just cited:

> "In sum, the great complexes of property and contract which constitute our modern industrial machine, the monopolistic associations of capital, labor, and the professions which operate it, exert, under the forms and sanctions of law, enormous powers of determining the substance of economic and social arrangements, in large part irrespective of the will of particular individuals."

The Motion Picture Production Code, voluntarily adopted by the members of our trade association in 1930, is an interesting illustration of the same process, but is not "monopolistic" since producers who are not signatories to the Code can and do secure certificates of approval on identical terms with its signatories.

Members of the association sought through the Code to improve the moral quality of motion pictures. It is my personal opinion that this system of self-regulation is "reasonable" within the formula announced by the United States Supreme Court in the Standard Oil case, the Appalachian Coals case, and other decisions interpreting the Sherman Anti-Trust Act.

Members of our Association, in providing for the enforcement of the Production Code, have stipulated by resolution that liquidated damages of twenty-five thousand dollars are incurred when any member of the Association produces or aids in the production, distributes or aids in the distribution, exhibits or aids in the exhibition of any motion picture which does not bear the seal of approval of the Association.

Let me repeat, however, that the services of the Production Code Administration — the board administering the Code — are available on identical terms to any applicant—member or non-member, domestic or

foreign producer. This is further evidence of the reasonableness of this self-regulatory machinery which the organized motion picture industry has set up. Better yet, statistics indicate that while only approximately sixty per cent of the screen product is produced by members of our Association, ninety-eight per cent of the playing time of American motion picture theatres is devoted to the exhibition of approved pictures, since most of the non-member domestic producers and an increasingly number of foreign producers voluntarily avail themselves of the services of the Code authority and submit scripts and completed pictures on the same basis as members.

The Production Code, a relative brief document composed of three general principles and twelve sections, is itself a product of eight years of trial and error. If the initial period marking the beginnings of self-regulation (1922-1930) be compared historically to the thirteen American colonies under the articles of Confederation, then adoption of the Production Code in 1930, logically corresponds, under the same historical analogy, to the adoption of the Federal Constitution which marked the evolution of a "more perfect union".

But students of Constitutional Law and American history in this audience will remember that about eleven years elapsed between the adoption of the Federal Constitution and President John Adams' midnight appointment of John Marshall as Chief Justice of the United States Supreme Court, which paved the way for the rendition of those epochal opinions which effectively implemented the generalizations of the Constitution itself.

Enforcement of the motion picture code passed through a similar phase, so that the period between adoption of the code in 1930 and the appointment of my friend and colleague, Joseph I. Breen, as director in July, 1934, is comparable to the period in American history between the adoption of the Constitution and the appointment of John Marshall as Chief Justice. Some of our critics fail or refuse to take adequately into account these phases in the evolution of self-regulation. The period 1930-1934, culminating in Mr. Breen's appointment, saw the adoption and strengthening of necessary administrative rules and procedures for applying code provisions officially adopted in 1930. I am quite prepared to be cross-examined, publicly or privately, for any length of time you desire regarding the efficacy of our industry's self-discipline since July, 1934.

During the past five years, for example, we have issued 29,209 written opinions relative to the suitability, under the code, of novels, short stories, stage plays, original scenarios, shooting scripts and completed pictures.

Provisions of the code are of two general types. First, there are certain specific prohibitions, such as the sections forbidding the approval of motion pictures containing profanity, complete nudity, sex perversion or any inference thereof, or dealing thematically with the traffic in illegal

drugs or with venereal disease. Speaking as a member of the Production Code Administration, these sections are relatively easy to enforce because the prohibition is absolute and specific. Our interesting moments come when seeking to apply the other type of code section—such general principles as the following, for example:

> "Law, natural or human, shall not be ridiculed, nor shall sympathy be created for its violation. . . .
>
> "Crimes against the law shall never be presented in such a way as to throw sympathy with the crime as against law and justice or to inspire others with a desire for imitation. . . .
>
> "Adultery, sometimes necessary plot material, must not be explicitly treated or justified or presented attractively."

Take the last quoted section, for example, dealing with the problem of illicit sex. We find this in the Old Testament story of King David and Uriah's wife. We find illicit sex as plot motivation in drama from the days of ancient Greece to our own time. When, therefore, we review a picture which depends for plot motivation upon an illicit sex relationship between two characters played by glamorous screen stars, how in the world is such a film to be handled without appearing to justify the illicit relationship, or at least to present it attractively?

Our own "John Marshall" arrived at a formula in one of his most far-reaching opinions, when Mr. Breen stated that in order for an adulterous relationship not to be "presented attractively," where such relationship was necessary to the plot, the film must contain *"adequate compensating moral values"*.

A leading case under this section was the feature picture, "CONQUEST" —a historical romance dealing with the illicit love affair between Napoleon (Charles Boyer) and the Polish Countess Marie Walewska (Greta Garbo). During the production of this film, fifty-one letter opinions were addressed to the producer, numerous conferences held, and four screenings of the picture arranged in our successful cooperation with the producer to include "adequate compensating moral values" in the finished film. May I remind those of you who saw this picture of no less than seven items which, in our opinion, furnished the necessary compensating moral values.

> (1) The day after Napoleon met the beautiful young Polish countess at a ball in Warsaw, and clearly became infatuated with her, two Polish patriots called upon her and her aged husband, suggesting that she yield to any advances Napoleon should make, and thus aid in securing Napoleon's signature to a decree re-establishing Poland as a nation. Dialogue and action were inserted in which the aged husband strongly resented the suggestion and challenged the patriots to a duel for implying that his wife's adultery would be justified on patriotic grounds.
>
> (2) When the countess does go to Napoleon in an effort to secure concessions for her countrymen, the audience sees her

start to leave the emperor's room, only to be pulled back by the amorous Napoleon. The surrounding circumstances indicated that she had made a serious effort to secure concessions and at the same time protect her virtue.

(3) When the countess returns home to her husband, after the affair, he condemns her action, refuses to live longer under the same roof which her, and goes at once to Rome where he secures annulment of the marriage.

(4) The next time the countess sees Napoleon she upbraids him for his conduct toward her, thereby establishing the fact that she recognized her own wrong-doing in committing adultery with him.

(5) When the soldier brother of the countess learns that his promotions in Napoleon's army have resulted in part from his sister's illicit affair with the emperor, he comes to see his sister, upbraids her severely, expresses humiliation, and leaves her in fury.

(6) When the countess comes to tell Napoleon that she is going to have a baby by him, the action was so arranged that Napoleon takes the lead in the conversation, and tells her instead of the marriage of state which Tallyrand has arranged for him with Marie Louise of Austria. The audience is made clearly to understand that the man in the case has taken the woman when it suited his passion and cast her aside when it suited his convenience. It is clearly indicated that the countess realizes this.

(7) Later, when the countess brings her illegitimate son to see Napoleon on Elba, he overhears the little boy saying his prayers and asking God "to bless my father whom I have never seen." Later, the little boy, who has become a hero worshipper of Napoleon, tells him: "Gee, I wish you were my Daddy . . . I have never seen my father", thereby heaping coals of fire on the head of the man who brought him into the world under such circumstances that his paternity was unrecognized. This scene constituted a powerful portrayal of the tragedy of illegitimacy.

Thus, through constructive collaboration *during production* the historical fact of this illicit love was not altered, but the surrounding details were so handled as to indicate clearly to theatre audiences that such conduct was wrong, that it brought tragedy in its wake, and that innocent persons suffered as a result.

In addition to administering the Production Code, we have certain purely advisory functions on matters of industry policy. Distinguish carefully, if you please, between our delegated responsibility as a joint editorial board to insist upon compliance with the Production Code and our counsel on policy matters which the producer may accept, modify or reject as he sees fit.

Consider the portrayal of lawyers on the screen, as an example, which is not without interest to the members of the Mississippi Bar Association. Ministers of religion constitute the only profession protected by a code prohibition against their portrayal as comedy characters or as villains. The rest of us—"rich man, poor man, beggarman, thief, doctor, lawyer, Indian Chief"—must take our chances on the screen. Attorneys are cast both as "heroes" and as "heavies", both in "reel" life and real life. When a lawyer is portrayed sympathetically, we are inclined to accept it as a matter of course. But when a member of the bar misbehaves on the screen, we lawyers take our pens in hand and fire away at all and sundry in the industry.

You know and I know that drama depends on conflict; that the clash between the hero and the villain is the stuff of which fairy tales, adventure stories, murder mysteries, and romances are woven. But if we yielded to all the protests from members of various professions, trades, races and groups, Joe Breen asserted not long ago that the only satisfactory screen villain would have to be a white, native American who was a graduate of no school or college, who belonged to no recognizable church, lodge, business or profession and had no job! The very next day some W.P.A. workers protested because a man on relief was shown as a "heavy"!

Perhaps some of you noted the article in the March, 1939, American Bar Association Journal for which I assembled some rather interesting statistics on the portrayal of lawyers and judges on the screen.

During the last half of the calendar year 1938, we approved 314 feature pictures, in 65 of which lawyers were shown. Forty-five of the 65 were cast sympathetically, 18 unsympathetically, while the characterization of two was described as "indifferent". Be it noted, however, that only one prominent unsympathetically cast lawyer and seven minor unsmypathetcially cast lawyers appeared in these 65 pictures without a sympathetically cast attorney appearing in the same picture by way of contrast.

There were 32 judges shown in these films; 27 of them were sympathetic characters, one unsympathetic, one both sympathetic and unsympathetic, and 3 appeared for such a brief moment that the role was defined as "indifferent". 34 of the 42 courtroom scenes were handled with dignity; 8 others, chiefly police courts and proceedings before justices of peace, contained comic situations.

We adhere to Edmund Burke's famous dictum "that you cannot indict a whole nation", and insist by the same token that it is unfair to indict an entire profession or calling on the screen. For this reason an effort is made to distinguish between the misdeeds of an individual and the ethical standards of the group of which the individual proved himself an unworthy member. No professional group should ask more. The organized motion picture industry has no desire to do less.

In closing, I would be untrue to the spirit which brought me here if I did not call upon you and all other thoughtful, law-abiding people

throughout the nation to support our efforts at self-regulation. The real sanction for the act of a legislature comes from the people whose representatives have voted the enactment. While our Production Code and the machinery for its successful administration, which I have outlined, rest legally upon the application of "the rule of reason" the ultimate sanction is derived from the inherent sense of decency and good taste in the minds and hearts of the rank and file of the American people. In short, we depend upon the support of the same public opinion which influences our state legislators and our congressmen. We believe that in insisting upon compliance with the code, we are expressing the attitude of the decent, clean-minded, law-abiding, God-fearing men and women who compose the rank and file of our citizenship.

You may rest assured that those of us who compose the Production Code Administration are not going to approve any pictures which fall below the standards of decency and good taste embodied in the Code. The two per cent of the total screen fare of the American people which we describe as "bootleg" films will lose even their limited circulation when enough people repudiate that type of entertainment.

At the other end of the scale are the ten or fifteen per cent of the year's product which would be almost unanimously classified as pictures of unusual quality. The degree to which more and more films expand the percentage in the upper brackets; the degree to which all screen material improves in quality—depends directly upon the degree to which you and your wife, your son, John, and his wife, your Sunday School, your church, your bar association, and your community support them at the box office.

If such a great picture as "Abe Lincoln In Illinois", with its drama, its human pathos, and its profound message for the perilous present, proves a box office disappointment, and a gangster picture plays to crowded houses, the producer cannot be blamed if he acts upon the box office vote. The laws of supply and demand are as applicable here as they are throughout our entire economic system.

For the past five years, the organized motion picture industry has presented for exihibition, not only in the United States but throughout the world, an increasingly good supply of quality pictures. To the degree that your own endorsement of these exceptional films and your support of them at the box office creates a demand for more quality pictures—to that degree you are applying the fundamental laws of economics instead of indulging either in carping criticism or in wishful thinking.

When former President Lowell was installed years ago at Harvard University, he remarked in his inaugural address that if the temperature of the ocean were raised a few degree, the waters would expand until they covered the dry land. My fellow-Mississipians, what we need most of all in this year of our Lord 1940 is an increase in spiritual temperature. Every profession, every calling, every media of communication has

a contribution to make to this cherished objective. As attorneys-at-law, members of a profession so distinguished that we are in a unique sense public servants, the call comes to us today to seek, in every way within our power, to elevate national standards, to stimulate national morale, to rededicate the people of this nation to its service, to increase the spiritual temperature of these United States until ease and self-indulgence, racial ill-will, class hatred and religious prejudices are all submerged beneath the rising waters of the spirit.

When General Booth, founder of the Salvation Army, kneeled by the side of his helpmeet through the years to catch the last faint whisper from her lips, he heard her say: "The waters are rising; thank God I am rising with them!"

My friends, the waters *are* rising. Ours is the privilege and the opportunity of rising with them day by day as we strive to make this state a better state, this nation a better nation, and our own lives more completely dedicated to the doing of the will of God.

The meeting adjourned for the day.

FRIDAY, JUNE 28, 9 A.M.

The meeting was called to order by President W. H. Watkins. Mr. Watkins called on Mr. Charles A. Sisson, Chairman of the Junior Bar Section, for a report of that Section.

REPORT OF JUNIOR BAR SECTION

The Fourth Annual Meeting of the Junior Bar Section was concluded on this past Wednesday night with a most instructive address and challenge by the Honorable Walter P. Armstrong of Memphis, Tennessee.

At the meeting in Greenville in 1936, the Junior Bar Section was created; the purpose as set forth in the resolution was "to provide a forum for the younger lawyers, to encourage and foster discussion, the interchange of ideas, and constructive action for the preservation and advancement of the ethics, prestige, and integrity of the Bar among the younger lawyers, and to establish a special means whereby the younger lawyers may be induced to interest themselves to a greater extent in the activities of the Mississippi State Bar and more materially assist in the accomplishment of its purposes and functions." The members of the Section feel that during the four years of its existence that these purposes have been carried out. We realize, of course, that more can be done, and we know that more will be done in the coming year and years.

At the meeting of the Executive Committee in August of last year, a program of work for the coming year was adopted. Mimeographed letters were sent to each member of the Section requesting that such member indicate what phase of the program he or she was interested in

and desired to work on. Approximately fifty replies were received and the committees were appointed. At this time, I want to give credit for the work of the Section during the past year to the members of the committees, and especially to the chairman of each committee. As always, the burden of the work fell on the chairman.

The Committee on Cooperation with Young Lawyers was divided into two divisions, with Stokes Robertson, Jr., and Eugene Thompson as chairman of Division "A" and Division "B" respectively. This committee has done splendid work. It had a hard task, in that it was difficult to know in what way the committee could best serve the young lawyers. All of those being admitted to the bar were welcomed by letters; and a partial survey of towns in Mississippi, where there were possible openings for young lawyers was made and the results of the survey given to the graduates of the University.

The committee recommended that the work of this committee be continued. The Section received and approved the report of the committee.

The Committee on A Bureau of Criminal Identification, Investigation and Statistics, headed by George M. Ethridge, Jr., during the past year carried on the work done by this committee last year. At the meeting in Biloxi the Junior Bar Section and the Mississippi State Bar approved a bill to be presented to the legislature providing for such a bureau. At the recent session of the legislature this bill was defeated, the main objection being the cost of such a bureau and the lack of finances to defray the necessary expenses. The committee and the Junior Bar Section feel that there is still the need for such a bureau; and the following recommendations of the committee were approved by the Junior Bar Section:

(1) That the Junior Bar Section continue its present committee with a personnel, to be selected by the chairman of the Section, and that the new committee be clothed with the duty and responsibility of redrafting and rewriting the bill which has been endorsed by the Mississippi State Bar Association in order to eliminate any objectionable features from an administrative, legislative, or constitutional standpoint; and, further, that the said committee be authorized and directed to continue the work that has been started by this association to the end that the laws of the State of Mississippi will be written in such form as to cope with the crime problem in our state.

(2) That this committee be clothed with the duty and responsibility of studying the statutes and laws of Mississippi on crimes and misdemeanors, criminal procedure, and the prosecution of those violating said laws and of recommending to the Junior Bar Section at its next meeting any necessary amendments thereto or any new statutes or criminal law and procedure they might deem advisable.

(3) That the Junior Bar Section present in the form of a recommendation to the Mississippi State Bar, a resolution providing for the

appointment of a committee of its members to be selected from the various districts of our state for the purpose of cooperating with the Junior Bar Committee and assisting them in performing their duties on this subject.

In accordance with the recommendation of the committee, approved by the Junior Bar Section, I move that the Mississippi State Bar go on record as approving the action of the Junior Bar Section and approving the appointment of a committee by the incoming president to cooperate with the Junior Bar Section. [The motion was passed.]

Marcellus C. Green, as Chairman of the Committee on Pleading, Practice and Procedure, reported for the committee that it felt that a course of watchful waiting and a campaign of self-education in reference to the Federal Rules of Civil Procedure was best.

At the meeting in Biloxi the Section approved a machinery whereby the rules could be adapted to our state practice when the majority of the members of the Bar favored such rules. With this in mind the committee recommended that members of the Section study and discuss the rules and get others to do likewise. This report was received and approved.

The Committee on Public Relations, of which W. Calvin Wells, Jr., was chairman, also had a difficult task in deciding how it could best bring about the results desired. The purpose of this committee was to bring the bar and the public closer together and to inform the public of the ethics of the legal profession.

The committee reported that in its opinion it was not practical to have newspaper articles prepared and published. The committee recommended and the Section approved a campaign to be carried on by the Section during the coming year, in which the Section, in cooperation with the State Superintendent of Education, will have its members appear before the high schools and junior colleges and explain to the students the Bill of Rights and the privileges which we enjoy by virtue of the Bill of Rights and our Constitution.

The Committee on Admissions to the Bar, of which Harvey Lee Morrison was chairman, reported a need for the raising of the standards of admission to the bar. It pointed out that under the present system the Board of Bar Examiners is composed of three practicing attorneys appointed by the governor for a four year term. The committee pointed out that over the last ten years the percentage of those passing the examination given by the State Board ranged from 50 to 90%.

The committee recommended that the term of office be for a period of 6 years, that the Board consist of the Dean of the University Law School, Chief Justice of the State Supreme Court and a practitioner who has been practicing for at least 10 years, these to be appointed by the governor, thus standardizing the system.

The Section directed that a committee be appointed to draw the pro-

posed legislation and report back to the next meeting of the Junior Bar Section; and that a provision be inserted in the proposed bill that it not go into effect until January 1, 1944.

John C. Satterfield, Chairman of the Legislative Drafting Committee, reported that the services of the committee were offered to both the members of the House and Senate during the last session of the Legislature, but that the legislators did not see fit to avail themselves of the services offered. The purpose of the committee was to assist members of the legislature in drawing proposed legislation so that such legislation would be in proper legal form. Some of the staff of the Attorney General's office had expressed a desire for such assistance.

The committee feels that it is useless to continue the committee since the legislators did not call on the members for any assistance. The Junior Bar Section approved this report.

The Legislative Drafting Committee in conjunction with the Code Committee recommended that a Legislative Drafting Bureau be created by the legislature; that all proposed legislation be referred to this bureau. There the form of the proposed legislation would be checked; but the main purpose of such a bureau would be to check and report the effect that the proposed legislation would have on existing statutes and court decisions. It is thought by many that too often a member of the legislature introduces a bill with a certain state of facts in mind which the proposed bill will take care of, without any regard being given as to what effect it might have on other statutes and situations. The committee felt that the cost of such a bureau could be borne by allotment of funds now made to the Attorney General's office and be the contingent funds of the clerk of the House and Secretary of the Senate. The bureau would employ a full-time attorney and other necessary help. The proposed act is to be drawn and presented at the next session of the Junior Bar Section. The Section went on record as approving the purposes of the proposed Legislative Drafting Bureau.

The Code and Legislation Committee headed by John Morgan Stevens, Jr., has probably done more work than any other committee. This committee has carried on the splendid work done last year by the committee of which Ed Brunini was chairman. This committee reported on the success of the enactment of the proposed changes approved at the last meeting, and has recommended certain other changes. I am going to ask John Morgan to give the State Bar the report of his committee and the action of the Junior Bar Section on each proposal.

Mr. John Morgan Stevens, Jr., presented the report of the Code Committee of the Junior Bar Section. He summarized the recommendations of the Committee for the preceding year and indicated what action had been taken by the legislature upon them. [This part of the report will be found in detail in the proceedings of the Junior Bar Section, *infra*

page 617.] His motion that these recommendations be carried forward and presented again to the Legislature was adopted.

Mr. Stevens then presented the first new recommendation of the Code Committee. This recommendation provided for amendment of Code Section 536 in order to allow the legal sufficiency of notice of special matter under the general issue to be tested by motion to strike. [Found *infra* page 620.] After some discussion the recommendation of the Code Committee was amended so that the final sentence might read, "The legal sufficiency or materiality of such special matter may be tested by motion to strike by either party to the suit." As so amended the recommendation was passed. On motion by Mr. Stevens the portion of the written report explaining this recommendation was also amended by changing the word "plaintiff" to the word "parties" in the sentence reading, "There should be some provision for allowing the plaintiff to attack before trial the legal sufficiency of matter given as notice under the general issue." The succeeding sentence in the report was also amended by striking out the words "to be used by the plaintiff only".

Mr. Stevens then presented the next recommendation of the Code Committee concerning the amendment of Sections 495 and 363 providing for venue of actions in the circuit and chancery courts, respectively. [Found *infra* page 620.] After suggestions of minor changes by Mr. A. F. Bozeman, Sr., and Mr. O. B. Triplett, Jr., which were not adopted because they involved the changing of wording already in the sections, the recommendation as submitted by the Code Committee was adopted.

The next recommendation of the Code Committee, involving amendments to Code Chapter 175, dealing with the administration of estates of war veterans was then presented. [Found *infra* page 622.] The first two sections of this recommendation, being non-controversial, were adopted without discussion. The third portion of this recommendation was also adopted after some discussion covering the same points which were raised in the discussion of the report before the Junior Bar Section. [Found *infra* page 630.]

Mr. Stevens' report ended with a statement that certain other proposals had been considered by the committee but had not been finished and were referred to the succeeding committee.

Mr. Sisson then presented Mr. George M. Ethridge, Jr., newly elected Chairman of the Junior Bar Section.

The financial report of the Mississippi Law Journal was presented by Mr. George H. Butler, Jr., retiring editor. The report follows.

FINANCIAL REPORT OF THE MISSISSIPPI LAW JOURNAL

VOLUME XII

RECEIPTS

Appropriation of State Bar Association	$2,000.00
Law School Assessment	190.00

Sale of back numbers of Journal	74.38
Subscriptions	126.32
Cash Advertisements	240.00
Accounts Receivable	20.00
Total	$2,650.70

DISBURSEMENTS

Printing and distribution of Journals:		
Vol. XI, No. 4 (Deficit)	$ 72.52	
Vol. XI, No. 5	650.34	
Vol. XII, No. 1	549.47	
Vol. XII, No. 2	361.30	
Vol. XII, No. 3	416.29	
Vol. XII, No. 4	490.11	
		$2,540.03
Misc., Exchange and Banking expense		16.50
Postage, box rent and express		26.18
Stationery		14.25
Office expense—bookbinding, purchase of Journals, construction of book cases, and typewriter repairs		26.76
Surplus		26.92
Total		$2,650.70

DAN H. SHELL,
Business Manager, Vol. XII.

Mr. Butler concluded by thanking the members of the Bar for their cooperation and inviting any criticism or suggestions as to the administration of the Law Journal.

The President then presented Mr. W. A. Ellis, who read his annual poem dedicated to the city in which the convention was being held.

MISSISSIPPI STATE BAR

JACKSON, MISSISSIPPI

W. A. Ellis

Magnolia's Bench and Bar all hail!
Best wishes for our noble cause.
Uphold, support, but never fail
Her constitution or her laws.
May justice, truth and right prevail,
Though other matters give us pause!

We meet today in Jackson town,
Politic center of our state,
Where politicians of renown

Read in the stars their future fate,
Where some go up and some come down
And few made wiser soon or late.

Headquarters for our great hotels,
The biggest, smartest, finest ones,
So air conditioned, each excels
In getting all a fellow's funds.
They fill and feed him till he swells
And dreams at night he's Solomon's.

Road center and industrials, too,
"With faith we build", it now appears
Combining best of old and new,
Eliminating doubts and fears,
Relying on the grand and true,
For greater things in coming years.

A city by the river side,
Two capitols instead of one,
With mind and muscle well applied,
The War Memorial nearly done,
With wisdom, beauty, strength allied,
That thrills the heart to gaze upon.

Her streets and alleys all abound,
And stretch away for many a mile,
But parking space is scarcely found
Except for just a little while,
So precious is this building ground,
To keep in step with modern style.

In school and church, it's just the same
Magnolia's largest, finest, best,
All worthy of an honored name,
Meet ev'ry call, stand ev'ry test,
Entitled to undying fame
By Bench and Bar and all the rest.

Whose mayor, Walter Scott, et al.,
Will balance budgets up or down,
In all affairs municipal,
Until the red ink's nearly gone,
Then spend it like a prodigal
And cry for more to figure on.

There's one more institution, boys,
To which I would attention call,
That often makes or mars our joys,

And sends a shudder over all.
Our Supreme Court, you know, employs
Strange *mene tekels* on the wall.

Pure fountain of judicial laws
Since oracles are dumb and dead,
O'er coming legislative flaws
And other errors of the head.
The Court whom lawyers hold in awe
And look upon with fear and dread.

"Per curiam, affirmed, reversed,
Remittitur on damage part,
Divided court"—are words accursed
In many an honest lawyer's heart.
At any rate, some get the worst
And should have known it at the start.

Hurrah for Jackson! Let e'r grow
On level stretches, rolling hills,
With homes and houses row on row,
For architects' and builders' bills.
A prophecy made long ago
As ev'ry morning now fulfills.

She's growing fast by leaps and bounds,
A solid growth on ev'ry side,
Whose trades increase and wealth abounds,
In ev'ry form of civic pride.
On hill and dale, enchanted grounds
Where cultured homes of peace abide.

The Bench and Bar in session now,
Should give old Jackson honest praise,
Wreathe olive branches on her brow,
For what she's done in many ways,
Twine on her head the laurel bough,
And bid God speed for coming days.

The following resolution, introduced by Mr. R. M. Kelly, was adopted by the convention:

WHEREAS, The annual conventions of the State Bar of Mississippi have long and regularly been honored by the attendance of Hon. Marion W. Reily; that it has been charmed and entertained by his eloquence and instructed by his counsel, and

WHEREAS, We learn with sincere regret that serious illness de-

tains him at his home in Meridian and that we will therefore be denied the pleasure and the profit of his presence at this convention, now, therefore,

BE IT RESOLVED, That we express to Hon. Marion W. Reily, through the President of this Bar, our fervent hope and prayer for his speedy and permanent recovery.

R. M. KELLY
J. KNOX HUFF
R. S. TULLOS.

The report of Mr. Ben McFarland, Complaint Commissioner, was presented for him by Major Wells.

REPORT OF COMPLAINT COMMISSIONER

Since our last annual meeting sixteen complaints have been filed and six were carried over from last year. Four of the complaints that were carried over from last year could not be adjusted by the Complaint Commissioner and were referred to the entire Board of Commissioners. After these complaints had been referred to special Committees, one was satisfactorily adjusted, and the Commissioners voted to file disbarment proceedings again one attorney against whom a complaint had been filed, and they decided to reprimand another attorney and one complaint is still pending before the Board. Of the remaining eighteen complaints fifteen have been satisfactorily settled by the Complaint Commissioner and the remaining three are being given proper attention.

Respectfully submitted,

Ben H. McFarland,
Complaint Commissioner.

The report of the Study Committee was presented by Mr. W. S. Welch.

REPORT OF STUDY COMMITTEE

There was a time when the courts exercised over their claim of inherent rights powers vastly beyond any right now given to them. Under the rule-making power, then thought to be inherent in all courts, they had the right and power to promulgate rules and regulations designed to promote the orderly administration of justice. This power was taken from them little by little as a result of legislative enactment. Lawyers who lost their cases became successful candidates for legislative position and, with our mania for passing laws, the lawyer, on becoming a legislator, undertook to get passed a law so as to change a rule either of law or of proced-

ure which had been invoked against him so that he could win the next similar case to come his way. The result is that we have a system that is slow, expensive, illogical and altogether antiquated.

For years the American Bar Association has been advocating the matter of reform in judicial procedure and restoring to the courts the rule-making power. The adoption of the Federal Rules for the District Courts of the United States has caused the bar to again consider the matter of recasting our system for the administration of justice.

The bar associations, the American Judicature Society and other agencies have given further study of the problems. We need more than anything else an American Dickens. We need a great satirist to poke fun at us and compel us by laughing at us to shake off the lethargy and drive us to think not how cases may be won by finesse, but how justice can be best promoted. The answer is not yet patent.

Your committee, pursuant to a mandate from your capable and forward-looking, energetic President, and his earnest and patriotic Commissioners, have presented some rules for your study. District Associations are being organized and these association will furnish a means of a more effective study of the proposed rules. We beseech you to give them careful study with a view of making helpful constructive criticism. We suggest the reference of these rules to next year's Study Committee for further consideration and examination.

W. S. Welch
R. M. Kelly
W. W. Venable
Gerard Brandon
Landman Teller

Mr. Welch moved the adoption of the report, and Mr. C. L. Garnett moved as an amendment that "the incoming president appoint five lawyers known to be outspoken opponents of these proposed rules, and that they be authorized to file a counter report at the next meeting of this Association, and be allowed, if they desire to do so, to print that report and distribute it among the Bar through the Secretary; and that it be the first order of business as soon as the necessary preliminaries are disposed of." The amendment was lost by a vote of 61 to 40, and Mr. Garnett then moved that the committee report be set for the first day of the next meeting and that it be allowed the entire time of the first day except for the President's address. The amendment failed for want of a second.

The President next presented Mr. F. W. Bradshaw of the Mississippi National Guard.

MR. F. W. BRADSHAW: General Snyder has asked me, as Judge Advocate of the state staff, to present a request to this association. As you know, the job of the state staff is to plan and put into effect and administer mobilization, plans for recruiting the military force and plans for operation of the selective service.

While we have no official information and this is not to be taken as anything official from either the National Guard or the War Department, we are trying to anticipate the needs of this country in event of mobilization if there is to be a material increase in our military forces. It will mean that there will have to be extensive recruiting done throughout the country.

I might state that in the mobilization plans of this state and all states the lawyers are to be given an important part. It will be their duty to carry to the people the message of patriotism necessary to get the requisite recruits. Along that line the Adjutant General has requested that this association appoint a committee, small committee preferably, possibly one man from each supreme court district, who would act as liaison with the Guard in the organization of a speakers' bureau to carry the message of patriotism to the people of the state should the time come. We would like to have that committee so that they may be informed of our plan, and so that they will know the job the lawyers will be called upon to do.

A motion by Major Wells for the appointment of a committee in compliance with the request was adopted.

The President then presented Mr. John H. Fox, Jr., of the University of Mississippi Law School, who introduced Mr. Thurman W. Arnold, Assistant Attorney General of the United States, who delivered the principal address of the convention.

THE ANTI-TRUST LAWS AND THE CONSUMER

Thurman W. Arnold

Protecting The Consumer Against War Inflation

Three problems arise out of our present need to spend billions for defense. The first is the military and naval problem of what kind of defense is necessary. This is the business of military and naval experts.

The second problem is to protect the taxpayer, whose burdens are going to be heavy enough anyway, against paying unnecessary tribute to small groups in control of war boom industries.

The third problem is to protect the consumer and the farmer against a disastrous unbalance of prices.

The problem of the American consumer who depends on private enterprise to give him goods at competitive prices is intensified by the present war. The European war has created a hugh new consumer coming into our markets with mass buying power and artificial credit. That gigantic consumer is going to compete with the ordinary American who wants food, clothes and houses. It would appear, for the present at least, that we have plenty of goods to satisfy this new giant. He may even

cause men to be employed and purchasing power to increase. Some organizations may gain unheard of riches. Yet if we do not understand the situation, or if we are unprepared to meet it, this new purchasing power and these new riches may hinder instead of help the American farmer and the American consumer. They may even create a permanent dislocation of our economy of distribution for the next twenty-five years.

What happened to the ordinary consumer in the boom which followed the outbreak of the war in 1914 The boom was slow in starting. First there was a drop in prices and general distress. Then came the prewar inflation of 1914 which robbed productive industry for war boom industry, resulting in complete unbalance of prices. We were confronted with the spectacle of the Southern farmer going hat in hand to the newly-created millionaires and asking them for Charity's sake to buy a bale of cotton. There were no controls. Real wages went down one-third while thousands of new fortunes were made. Wilfred I. King estimated that in the United States alone enough money was transferred from the pockets of labor and consumers to the pockets of manufacturers and promoters to make 40,000 new millionaires. Preparation for war must not lower the purchasing power of wages or make relief more costly. Farmers and consumers will have to pay for national defense in taxes. They must not be required to pay double because of controlled prices.

No group of industries is more closely organized in a few hands than war industries. Insofar as that organization is necessary for efficiency, it should not be disturbed. But the unreasonable use of that organized power, to put a floor under prices, and to charge all that a rising market can bear must be stopped. We cannot afford to repeat the experience of the last war.

Unfortunately it will require booming prices for only a few products to start the price structure on an upward spiral which will soon get out of control. The pressure of demand is already developing strongly in war supplies such as steel, copper, aluminum, and numerous chemical products. So far the price levels have not responded seriously to this pressure, due in part to counterpressure which the antitrust agencies of the Government have been able to exercise. On the slightest provocation, however, especially with any relaxation of the antitrust laws, an upward price movement is likely to develop a cumulative effect which will spread irregularly throughout industry, to the detriment of the farmer and the consumer whose purchasing power does not respond equally to the war stimulus on industry.

The antitrust laws, if vigorously enforced, can prevent any group from using the cloak of national defense to establish themselves in strategic positions from which they dominate the market. They are the front line of defense against the unreasonable use of industrial power.

I can illustrate what has been happening in closely-controlled war industries by citing a letter written by a nationally-known manufacturer of war materials to a subordinate. He said:

> "A great many of the patents that we are operating under are very weak and if we wished to we could break them ourselves and not pay royalties, but good business judgment, I believe, justifies the idea of paying royalties even on weak patents in order to maintain a price control picture that is helpful."

This kind of thing is repeated over and over again in closely controlled industries. Vigorous enforcement of the antitrust laws is the only effective instrument at hand to give protection against this kind of business practice. The Antitrust Division is on the trail of hundreds of similar impositions. It can clear them up provided the funds and the men are available to make prosecution hazardous for those engaged in such practices. But nothing short of real enforcement of the Sherman Act will serve. Preaching about patriotism was not effective in the last war and will not be effective in this war.

In an age of industrial organization, the only balance wheel capable of preserving a free market is an enlightened consumer movement. Consumers are not interested in destroying efficiency of large organizations in order to protect inefficient small business. The slogans of the old-fashioned trust-busters, therefore, do not appeal to them. They are willing to accept large organizations if it means greater distribution of goods. They have an interest in attacking an organization only when it is blocking distribution.

Therefore, the only thing needed to obtain the cooperation of the great army of American consumers for antitrust enforcement is to show them how it can aid the distribution of products which they have to buy. They are not interested in economic principles. They are interested in the price of pork chops, and bread, and spectacles, and plumbing. You must talk to them in terms of concrete items on the family budget. Antitrust enforcement must come down from the blue sky of economic and legal theory and concern itself with these family budget items, one at a time. When this is done, anybody can understand the purpose of the Sherman Act and the great body of American consumers can be mobilized in their own self-defense.

The need for consumer representation in national industrial policy is increased and intensified whenever government spending on a large scale becomes necessary. In such times the fear of rising prices is felt in every home. Consumers demand protection. The pressure of that demand compels the government to put a consumer's representative on every committee of importance which is called on to direct expanding industrial production which is the aim of the government expenditure. In the past, however, that representation has been ineffective because it has been given no tools to work with.

For example, during the days of the N.R.A., the pressure of consumers compelled the setting up of committees to look after their interests. Unfortunately, these committees did not know what to do and they were swept aside by the influence of the special interests interested

in maintaining price levels against deflation. The consumers responded by turning against the N.R.A. itself. Then the absence of effective consumer representation swung the country from one extreme to the other.

Today the war forces on us another huge increase of government expenditure. Again a directing committee to advise on industrial expansion is appointed. Again representatives of the consumer's interest have been put upon that committee—Mr. Leon Henderson of the Securities and Exchange Commission and Miss Harriett Elliott of the University of North Carolina. Thus the consumer movement as usual obtains its initial place in the sun. The only question is whether these representatives are to be figureheads or whether they can give effective protection to the great mass of low-income groups they are supposed to represent.

The war in Europe is going to start the wheels of industry turning at a faster rate. More men will be employed; purchasing power will increase; dollar income of the country as a whole will go up; the consumer will have more dollars to spend. The task before the consumers' representatives in this situation is to see that real wages do not go down when money wages are rising.

These consumers need protection not only on their own behalf, but in the interests of the Government's getting its money's worth. If there is a housing shortage, the Government must pay higher wages to give its workmen houses. If the price of milk is maintained at artificial levels, more money must be paid to workmen to provide milk for their families. The race between higher wages and higher costs of living was the chief contributor to unduly expensive military preparation in the last war. Unbalanced prices and uneven distribution of munition is the chief cause of high cost of military preparation.

Is Antitrust Enforcement a Practical Possibility

Antitrust enforcement consists in taking up a large number of concrete cases. The cumulative effect of a large number of these cases is tremendous.

This is not a matter of speculation. We have proved the effectiveness of a mass attack on all the restraints of trade which interfere with the distribution of a house from the raw material to the consumer. In the cities where we have been able to move effectively, we have saved hundreds of millions for consumers. That activity should be extended to other cities. The same sort of attack will work for food, fuel, drugs and every other necessity of life distributed by large organizations. I repeat, in mobilizing the nation's resources for preparedness, it is of the utmost importance that the consumer should not pay through the nose for the necessities of life.

The enforcement of the antitrust laws is not a matter of expounding an abstract theory about economic systems. It is a matter of case by case enforcement. But when we find in a great metropolitan area that the prices of millions of dollars of fruit and vegetables are determined by a

private group which issues a printed sheet of current price quotations based on a few sales, we want to be in a position to attack and to destroy those restraints of trade.

Twenty-one million people need spectacles in the United States. Already in Washington the price of spectacles has been cut in two because of a direct attack on a frozen national distribution system.

Events of today are forcing us to be practical. We must think in terms of specific prices of specific articles. You can't do anything about prices of everything at once except to make a speech. What we want to do is to get milk around, to get drugs around, to get gasoline and other types of fuel distributed in such a way that the increased dollar wages which will come from war preparation will not mean decreased real wages and unbalance of prices. Let me give you a concrete example of how this thing works.

As this is being written there are a lot of filling stations in Washington which are not doing well financially. Many of them cannot survive real competitive forces. Some of them have an advantage over the others because their storage facilities enable them to buy at tank car prices. They can, therefore, sell at prices which would drive the small stations to the wall.

The other day all the filling stations got together and decided to end competition (which they referred to as a "price war"), and to fix prices at a point high enough for everyone to survive. The larger stations were willing because the fixed price gave them a still greater profit. The timing appeared to be about right—just when war expansion seemed imminent.

Assume that the indigent filling stations represented about one-third of the total. Assume that we desired to give these stations some relief. By following the price-fixing method, relief to the indigent filling stations costs three times as much as a direct subsidy. For every dollar of profit given to the impecunious one-third, we have to give two dollars of profit to those who do not need it. The cost of this price fixing to consumers in Washington was approximately $2,000,000 a year. Thus the consumers were expected to pay $2,000,000 in order to give needy individuals $666,000.

This extra $1,333,000 has to be supplied by the Government out of taxpayers' money. Washington is a city almost solely dependent on the Government payroll. The Government must pay wages high enough to get its workers to and fro to the office. This takes gasoline. The cost of this gasoline, however, is multiplied still further. Every merchant who delivers food finds his cost increased.

In addition this price rise in gasoline in Washington is not only a tax on the Government and the people in Washington. It is also a tax on the farmer, the banker and the merchant in Virginia and every other agricultural state. The tax on the farmer works in this way: A govern-

ment employee who gets $1,800 a year is not able to set a very fancy table. He spends his entire income on necessities. If he has to pay $50 more for gasoline he must go without an occasional steak or a new dress for his wife, and the farmer or the textile manufacturer loses. Thus the unbalance of prices caused when this small restraint is thrown in the pool of purchasing power spreads out in ripples in every direction. The accumulative effect of these restraints of trade is enormous.

The farmer used to get fifty cents out of every consumer's dollar. Today he only gets thirty cents. Tomorrow, if we allow things like this to go on, he will only get twenty cents. In cartelized Germany, prior to Hitler, food was scarce; yet farmers were in distress. They could not exchange that food for the plentiful manufactured goods because the prices were fixed. There were millions who could not be employed in a country that needed work to be done, because of that system.

Actually it took only one man three days time to call witnesses before a grand jury to stop fixing the gasoline prices in Washington. The prevention of such restraints is a very simple problem of policing. It cannot, however, be solved by speeches or by panacea legislation. We can only do it by the tiresome process of taking up one thing at a time.

This is how antitrust enforcement worked in a single unorganized industry in a particular city. Let us examine it in the field of large, highly-centralized organizations.

Potash is an essential war material. It is also essential as a component of fertilizer. In the last war it rose to about $400 a ton. At present we have developed a greater national supply than in the last war, but there is still a domestic shortage. The entire supply is closely controlled by four companies.

The problem here is, not to destroy these four companies, but simply to compel them to justify their organization as essential to the economic distribution of potash. If an individual controlled all the potash in this country, there is no law at present on the books which would prevent him from raising the price as high as he desired. However, fortunately no individual has that control of any necessity. A corporation is not an individual—it is an organization which restrains trade. The validity of the exercise of its organized power must, therefore, depend on whether that restraint is reasonable in the interests of efficiency, the savings of which are passed on to consumers.

Recently the four potash companies were indicted because the Government charged that they were using their organized power unreasonably to fix prices. As a result of that pressure, the potash companies voluntarily entered into a decree which cut the price of potash to the farmers at a time when there was a speculative opportunity to increase it because Germany had declared war and there was an actual 12½ per cent shortage of potash in the United States.

The potash companies voluntarily proposed that they would refuse to sell the speculators; take advantage of opportunities to sell to exporters

at an increased priced. That they altered their transportation charges so that farmers in Missouri saved $3.00 a ton. The Government felt that a combination which acted in this way should be allowed to continue its organized control subject always to the test of future performance. A decree in the Federal courts was entered to this effect.

American business, when faced with the necessity of justifying any particular organization in terms of efficiency and showing that the savings of that efficiency is actually passed on to consumers or else dissolved, are not unwilling to pay this price for continuance in power. It is absurd to expect directors of corporations to act in this way unless there in some compulsion. If the race for power is to the swift, the reasonable businessman is penalized because of his own desire for public service. He is dropped from the Board of Directors unless he moves in the direction of the greatest short-run profit. We are not faced with a group of malevolent businessmen. They are patriotic and loyal to the government. Antitrust enforcement should see to it that patriotism and loyalty is not subject to an actual financial penalty.

This is what happened in the potash case. The same thing happened in sulphur, in newsprint, and in steel. It can be made to happen in every one of our closely controlled industries which supply basic war materials.

I do not wish here to make specific charges against particular companies. However, I can, in general, assert that we have discovered situations in the industries which will furnish basic war materials which have the following results:

1. Throttling American capacity to produce essential war materials by foreign ownership and control of patents;
2. Cartelization of certain industries with price and production control in foreign hands;
3. Transmission to foreign companies of American military secrets;
4. Division of markets, fixing and restriction of price of materials essential to military preparation;
5. Collusive bidding on contracts for the army and navy.

The pressure of the antitrust laws when applied in such situations are uniformly successful in producing tangible results. They do not achieve completely consistent results. But they result in long-run planning of price policies to get maximum distribution instead of maximum short-run profit.

The reason why pressures of this kind actually work is that there are plenty of industrial leaders in organized American industry that will take a long-run view of price policies once such men get into control. Antitrust enforcement puts such men in power on Boards of Directors and in executive positions. The absence of antitrust enforcement causes their advice to be disregarded in favor of short-run profit taking.

I have in my files a letter from a man high in the councils of a great national industry. It was written in 1928 to the president of the corporation. It told the president, frankly, that the patents of the industry had been "sustained oftener than it is safe to sustain them." "Some day," said this executive, "people are going to get angry at this price fixing and either by a revolutionary decision of the Supreme Court or by legislation the whole thing is going to be swept aside and we are going to have to stop trying to control prices through patents in an entire distribution system." This advice was swept aside. The short-run price fixers won out.

Today this corporation is before the grand jury, because only three months ago the Supreme Court gave the decision prophesied by this executive. In the Ethyl case a corporation, composed of the Standard Oil of New Jersey, General Motors and the Duponts, had been putting a floor under the prices of 85 per cent of the motor fuel used in the United States. The Supreme Court has informed them that patents cannot be used in this way. The effect of that decision is going to be felt in every mechanized industry. The predicted event has happened. The only question is whether there is going to be an adequate organization for the consumer to take advantage of it.

Cooperation With Local Organizations

The ripples of intelligent antitrust enforcement spread in all directions. They create a public demand for state and municipal enforcement of local anti-monopoly laws or marketing regulations. The Federal government cannot do the whole job. Its power is limited to restraints of interstate commerce. State antitrust laws exist practically everywhere, but they have been a dead letter. Many lawyers are not even aware of them. Prosecuting attorneys do not understand them and avoid them. But when consumers wake up to the dramatic intervention of the Federal government, the apathy of state and municipal officials becomes impossible.

Mayor LaGuardia of New York has taken the lead by suggesting a cooperative effort between the City of New York with its marketing agencies and Commissioner of Investigation and the Antitrust Division in cleaning up the situation in milk. Mayor LaGuardia has been trying for years to get cheaper milk to the poor. He has constantly been blocked by a controlled system of distribution which extended beyond his jurisdiction and therefore was out of his control. The joint action of the Mayor and the Antitrust Division has an excellent chance of cleaning up this situation where the Mayor himself did not have sufficient power.

Cooperation With Labor

Some time ago the Antitrust Division announced that labor unions would be prosecuted for activities which had no connection with wages, hours, health, safety, or collective bargaining. The Antitrust Division has no jurisdiction over labor practices which do not directly affect interstate commerce. Yet, as a result of this prosecution all over the country, there was an awakening on the part of the rank and file of labor and on the

part of the public to what a few corrupt labor machines were doing to them in ways the antitrust laws could not attack. Westbrook Pegler dramatized the issue. Prosecuting officers were forced to take up cases against labor leaders which otherwise might never have been brought had not the rank and file of labor suddenly realized that some relief was possible. The ripples spread in all directions. Far-sighted men within the A. F. of L. and the building trades, particularly who had formerly preached in vain against the aggressive tactics of some of their colleagues, got a new hearing and a new respect.

For example, on June 10th of this year, a great national union, the Bricklayers, Masons and Plasterers International Union of America, consented to a decree in which they took the responsibility of assisting the Antitrust Division and the courts in enforcing on a national scale the prohibition of illegal restraints, which had been occuring in local unions, which heretofore had been out of their control.

This result was possible because the Supreme Court recently held that there was no exemption of labor unions for activities which had no relationship to a legitimate labor purpose. This international union, headed by two enlightened labor leaders, Harry C. Bates and Richard Gray, was enabled to take the lead in cleaning up the bad situation because the Antitrust Division had forced labor unions to meet that situation. Without the policy of continuous enforcement, such labor leaders cannot exercise the necessary influence over their locals.

There are those today who say that there are not enough restraints of trade yet, and that until some spectacular unbalance of prices occurs, greater than the unbalance which we now have before us, the Antitrust Division should be granted no more funds. They talk about *taxing* war millionaires out of existence.

To this I answer that, of course, war profits should be taxed. But to permit restraints of trade and then tax heavily those who restrain it, is no economic answer whatever. To let a man control the market and then take away his illegitimate gains by taxation is as absurd a way of government sharing in the illegitimate exploitation of the farmer and consumer.

Every agricultural state knows we need wait no longer for unbalance of prices to occur. Unbalance of prices is already with us.

What public enforcement on a nationwide scale can do is to liberate competitors from economic toll bridges. I think we have proved by nationwide investigations already under way that the antitrust laws can break down the barriers which prevent the distribution of products to the consumer in the most efficient manner known to modern technique. We do not want to destroy that efficiency. We do not wish to destroy great organizations. We only wish to compel such organizations to justify themselves as an aid to free trade. We only wish to attack them when they become a barrier by using their organized power to prevent the savings of technological improvement from being shared by the whole

country. This cannot be done without an adequate force. We have marched half way up the hill. We can already see the view. We desire to go the rest of the way. Whether we do or not depends on whether Congress will support us with an appropriation.

I am aware of the drive for economy in the face of war expenditures. Therefore, I want explicitly to point out that the Antitrust Division is not an expense but a revenue to the Government. Let me illustrate the difference in expense between enforcement and non-enforcement. From 1929 to 1936 the Antitrust Division spent about $300,000 a year. That small organization, occupied with the 31 Acts which are related to the antitrust problem, collected $73,000 in fines during that period. Last year the Antitrust Division was given $1,300,000. Six months of that year have gone by and approximately half of that appropriation has been spent—about $700,000. We have already collected $2,400,000 in fines and we have a potential of $5,000,000 more. Of course, we are not running the Division to collect fines, but the differences between the two types of enforcement as a narrow budget-balancing matter are strikingly illustrated by these figures. If you don't want antitrust enforcement you can always get non-enforcement by paying lip service to the principles and cutting down appropriations, but your excuse can never be economy because the Antitrust Division pays revenue into the Treasury instead of taking it away.

Therefore, I put the question frankly to the consumers of this country. Do you want the farm dollar to buy 100 cents worth of industrial products? Do you want to maintain a free market for the distribution of necessities as a balance against war inflation? Do you want free trade between the sovereign States of this country?

If you do you must give us an adequate force to patrol the road. We do not have it now.

The meeting was adjourned for the morning.

FRIDAY, JUNE 28, 2 P. M.

Dean T. C. Kimbrough acted as presiding officer.

The following report of the Finance Committee, having been approved by the Commissioners, was adopted.

REPORT OF FINANCE COMMITTEE

The Finance Committee has carefully studied the audit of the financial records and accounts of the Mississippi State Bar as maintained in the office of the Secretary-Treasurer for the fiscal year 1939-40, as compiled by Dick D. Quin and Company of Jackson, Accountants and Auditors, and approves this audit as presented by Mr. Quin.

We find receipts for the year 1939-40 of $5,595.00 as compared to $5,320.00 for 1938-39, an increase of $280.00. Expenditures for 1939-40

were $6,202.99, compared with $6,650.33 for 1938-39, shows a decrease in expenditures of $447.34. There is an unexpended balance on hand as of May 30, 1940, of $1,178.60. This balance together with anticipated receipts for 1940-41 of $6,000.00 will give $7,178.60 to finance the activities of the association for the ensuing year. Therefore, we suggest the following budget for 1940-41:

Office Expense	$ 750.00
Annual Meeting	400.00
Commissioners' Expense	750.00
Law Journal	2,000.00
Committee Expense	200.00
Junior Bar Section Expense	200.00
Secretary's Salary	2,100.00
Total	$6,400.00

This suggested budget is based upon the expenditures for 1939-40.

Your committee in examining the audit for 1939-40 finds that on May 30, 1940, there were 207 delinquent members of the Mississippi State Bar, making the accounts payable total $3,065.00. While this is a decrease in delinquencies shown on May 30, 1939, of fourteen, we feel that action should be taken to eliminate this situation, which reflects unfavorably upon the records of the association.

Therefore, considering the foregoing statements, the recommendations of your Finance Committee of the Board of Bar Commissioners are —first, that the audit of the financial records and accounts of the Mississippi State Bar as compiled by Dick D. Quin and Company as of May 30, 1940, be approved; second, that the suggestion of this committee with regard to the budget for 1940-41 be accepted; and, third, that definite action be taken in an effort to decrease and, if possible, eliminate the number of delinquent members of the State Bar.

Respectfully submitted,

P. W. Allen
Elizabeth Hulen
Ben H. McFarland

The Chair then requested nominations for the office of President of the Mississippi State Bar.

MR. HUGH N. CLAYTON: Mr. President, Ladies and Gentlemen of the State Bar: Ten years ago I started coming to the state bar association, and it has been my observation that the addresses nominating candidates for the president of the state bar have had two characteristics: first, they have been extensive; second, they have dealt with the subject of nomination with flowery phrases. It shall be my purpose this afternoon to try to do away with both of those characteristics and

deal with the subject in a short, practical way. I am up here to nominate, for the presidency of the Mississippi State Bar, Elbert Johnson of Indianola.

We have enjoyed during the past three days a most happy and successful meeting of the State Bar and the Junior Bar Section. I think one of the reasons we have enjoyed this occasion is because we have been in our capital city. Last year Jackson came to the bar association on the coast and invited us to come here, and when they invited us to come, they told us that we would have a good time. We came and we have had a good time. Last year Jackson not only invited us to come to its city for our association meeting, but it also offered a candidate for the nomination for President for our Association, the Hon. William H. Watkins, who was elected, and who has presided during the past 12 months. I think that choice was a happy one. Mr. Watkins has been an able man in the business of our association. This program we have enjoyed here the last few days has been due in no little part to the effort and ability of Mr. Watkins, and I think all of us owe to the city of Jackson and Hinds County Bar an expression of gratitude because they advanced the candidacy of Mr. W. H. Watkins; and so we say we are thankful that they did advance that candidate. Some of you attended the Junior Bar Section and the election of officers on last Wednesday night, and some of the older lawyers remarked with a smile that they did not know why the young lawyers come to it; that so often only one man is nominated for the chairmanship for that election and he is elected without opposition. It so happened that there was only one nomination for the election of chairman and vice-chairman.

When making the selection of chairman of the Junior Bar Section, Mr. Satterfield said that the Junior Bar Section has gone on record as elevating its vice-chairman as chairman of that section—not only as an honor but as a reward for service, and just as Major Wells said at the conclusion of the report of the Junior Bar Section, that organization should be complimented because of the work it is doing. I think the reason the Junior Bar is accomplishing things is the fact that it has followed throughout its history, in the selection of its chairman, after its first chairman, the policy of elevating to the chairmanship of that organization a member who has worked for the Junior Bar Section and a man who has performed and proved his ability, and I bring that to your attention; and I say that since it has worked so well with the Junior Bar Section and since it has worked well in our Section, I ask that you follow that time-tested rule, in selecting as president of the Mississippi Bar for the next twelve months the man I have nominated, whose services were tried. He has worked for the Mississippi State Bar; he has the ability to do and he has the desire to do. He has served on the board of bar commissioners twice, in 1936 and 1937. I believe in 1938 he was elected by this body to represent the Bar of Mississippi in the House of Delegates of the American Bar Association. He has served in that capacity for the last two years, and I would like to call to the attention of this group that his interest and fidelity to his representation of this body has been

to such a degree that he has gone from place to place in this country of ours, and has made frequent trips to the House of Delegates at his own expense. I think a man like that, willing to leave his practice and spend his own money, deserves our gratitude and recognition.

He is the son of a lawyer; he is a great lawyer himself. He is a man of high personal integrity, of pleasing and sweet personality. He is a man of ability and character, and I think we would do well to elect him to head our association for next year.

I appeal to you, my friends, that if we apply the test, the rule being so satisfactorily and effectively used by the Junior Bar Section in selecting men who have been tried and true, we will select men like Mr. Elbert Johnson, a man we can depend upon to perform, Mr. Elbert Johnson of Indianola.

MR. GORDON ROACH: Mr. President, Fellow Members of the Mississippi Bar: I rise to second the nomination of a man who typifies all the characteristics enumerated by my friend, and which are needed in a leader. You know, it has been said that if we knew each other better we would love each other more. As a member of the Bar Commission of the Fourteenth Judicial District, I came to know Elbert Johnson personally and intimately. I found him to be a man who is conservative in his ideas, sincere in his thoughts, sound in his judgment, and cautious in his actions. He is a lawyer of splendid judgment and distinction. If the lawyers of this state are to continue to be the leaders of this country I know of no man who could direct the energies of this great democratic association any better than the Hon. Elbert Johnson, and I ask you to support him.

MR. LEE D. HALL: Mr. President, members of the Mississippi State Bar: I rise to nominate a man who has proved himself qualified by service to the bar and efficiency. I rise to place in nomination the name of a man who has likewise shown himself to have the ability to serve, and the willingness to serve the Bar of Mississippi, a man who for the past year has served this bar ably as its first vice-president, a man who for many years has been a member of the American Bar Association, who has for many years been affiliated with that organization, has served on its committees, and who at the present time is serving on the membership committee. I have known Eugene Morse since I went to the University of Mississippi to begin my law course. I finished in the same class with him, I went to school with him. Back in those days he showed the capacity for leadership, and was elected president of the law class of 1915 of the University of Mississippi. He is a graduate of that Law School we are all so proud of, and he is a graduate of Millsaps College here at Jackson, and has taken special work in the Columbia Law School.

My friends, the suggestion has been made that Jackson has just had a president of the Mississippi State Bar. Might I not suggest to you that Indianola has recently had a president of the Mississippi State Bar, and in selecting our officers, I think we should consider the ability of

the man to serve and the willingness of the man to serve, regardless of what town he may come from.

I know Eugene Morse has the ability, I know he is an able lawyer, having served here in the city of Jackson as city attorney for a period of 13 years successively. I know he is a lawyer of outstanding ability; that he has rendered service to the Mississippi State Bar and the American Bar Association. I know that he has a pleasant personality, I know he is a genuine friend, and I take great pleasure in placing in nomination the name of my classmate, Eugene Morse, for president of the Mississippi State Bar.

MR. J. D. THAMES: It gives me pleasure indeed to second the nomination of Mr. Eugene Morse. He is a distinguished lawyer, a true southern gentleman; I hold no one in higher regard than your friend and my friend, Hon. Eugene Morse of Jackson, Mississippi.

MR. ROSS BARNETT: Mr. Chairman, Ladies and Gentlemen: It is indeed a pleasure to have this opportunity to say a few words in behalf of Eugene Morse.

My friends, I have been living in Jackson approximately fifteen years, and I have known Eugene Morse for approximately seventeen years; and I have always found him to be a man of honor, a man of integrity, a man in whom I have every confidence. Eugene Morse has the admiration, he has the respect and the utmost confidence of all the lawyers of Hinds County and of all the people who know him and of every one who has ever had any dealings with him.

Now, ladies and gentlemen, knowing Eugene Morse as I do, I take great pleasure in commending him to you as a man of honor, as a lawyer of great ability, as a man who is always fair, and as one who will make you an excellent president, if given the opportunity, and since he has been active in the Hinds County Bar Association and in the State Bar Association and in the American Bar Association, and is now serving on two important committees of the American Bar Association and holding the office of first vice-president at this time, I believe Eugene Morse should be promoted; and, ladies and gentlemen, I take great pleasure in commending him to you as your next president.

A vote by ballot was taken and the following result announced: Mr. Eugene Morse, 120; Mr. Elbert Johnson, 118.

A motion by Mr. Hugh Clayton that Mr. Morse be elected by acclamation was passed.

The Chair requested nominations for two vice-presidents. Mr. Ross Barnett nominated Mr. Elbert Johnson. Mr. Charles A. Sisson moved that the nominations be closed, and Mr. Johnson was elected by acclamation.

Mr. George Ethridge nominated Mr. George R. Neblett for second

vice-president. Mr. John Satterfield nominated Mr. Ed Brunini. Mr. Bill Jolly seconded the nomination of Mr. Neblett. A vote was taken and the following result announced: Mr. Neblett, 85; Mr. Brunini, 115. Upon motion by Mr. Jolly, Mr. Brunini was elected by acclamation.

The Chair requested nominations for the election of a member of the House of Delegates of the American Bar Association. Judge F. E. Everett nominated Mr. W. S. Welch. The nomination was seconded by Mr. Travis. Mr. Caldwell moved that the nominations be closed, and Mr. Welch was elected by acclamation.

The Chair requested that the members meet by Districts for the election of Commissioners, and the following results were announced:

First District—Ben H. McFarland, Aberdeen
Second District—Robert W. Thompson, Jr., Gulfport
Third District—Hindman Doxey, Holly Springs
Fourth District—Richard D. Denman, Greenwood
Fifth District—J. T. Crawley, Kosciusko
Sixth District—W. A. Geisenberger, Jackson
Seventh District—Leon F. Hendrick, Jackson
Eighth District—J. Knox Huff, Forrest
Ninth District—Landman Teller, Vicksburg
Tenth District—J. H. Graham, Meridian
Eleventh District—Eugene Thompson, Marks
Twelfth District—Quitman Ross, Laurel
Thirteenth District—Homer Currie, Raleigh
Fourteenth District—A. A. Cohn, Brookhaven
Fifteenth District—E. B. Williams, Poplarville
Sixteenth District—J. E. Caradine, West Point
Seventeenth District—J. H. Caldwell, Charleston

The Chair requested invitations for the place of meeting of the next convention. Mr. Guice stated that the City of Biloxi yielded to the invitation of Gulfport. Mr. Bidwell Adam spoke on behalf of the Coast.

MR. BIDWELL ADAM: Mr. President, Ladies and Gentlemen, Members of the Bar: I wish to say to you here today that I have no seagull speech in my system—I have been eating chicken since I have been in Jackson. But we do want you to come to the coast, we want you to come to Gulfport because it is one of seven cities by the sea. You know it is very much like Bob Taylor said in describing the morning—you can see the same morning that you see in Tennessee. We want you to come down there, not to see the morning, but to see the molten silver in the heavens as the gold leaves the blue waters of the gulf against the sunset of a waning summer's day. We want you to come down there and watch the evening as it hangs its silver curtain in the sky, and we want you to watch the evening sun as it races across the sky to the west, a goblet of gold.

I want you to come to Gulfport, and I think it is getting mighty dry in Jackson. I want you to come down there because Homer Casteel

gave a description that fits the coast when we had a recent visit from the legislators down there. I asked Homer to come forward and say something about the coast, and Homer said, "I love the coast because of the great Spanish mosses hanging on the oaks; I love it because of its winding roads, because of its beautiful seawall. I love it because of its dampness in spots."

I say to you that we have 15,000 people down there who will open their hearts to greet you and about 100 night clubs that will open their doors to greet you—as a matter of fact, if you come, I don't think they will close in spite of some of the work that has been done by the taxing authorities.

We want you to come and mingle with the mermaids, swim around with the fish through the waters, and when you come home you will know you have been to Gulfport.

Gulfport was selected for the 1941 convention.

The Chair then presented the newly elected officers, President W. Eugene Morse, Vice Presidents Elbert Johnson and Edmund L. Brunini, and Mr. W. S. Welch, representative in the House of Delegates of the American Bar Association. Each of these gentlemen expressed his appreciation of the honor bestowed upon him. The Chair then presented the gavel to Mr. Morse, and President Morse then entertained a motion for adjournment.

APPENDIX

The report of the Committee on Public Relations, and the address by Mr. Elbert Johnson on "The American Bar Association in Cooperation With State and Local Organizations" were not given at the Convention.

COMMITTEE ON PUBLIC RELATIONS

Your Committee on Public Relations, on account of so many questions of public interest during the past year, has been able to accomplish little more than to make a somewhat careful survey and investigation of the subject. The Junior Bar has a Public Relations Committee which has done considerable work. It is our opinion that our Association has done considerable work. It is our opinion that our Association may well continue the work of a Committee on Public Relations, and we recommend that our successors cooperate wholly with the Junior Bar. It is our idea that considerable publicity through newspapers and probably over the radio can be obtained, not for the purpose of improperly advertising our business, but for the worthy end of informing the public of the reciprocal relation which should exist between the people and the organized Bar.

Our committee held one interesting meeting in Jackson, and its members exchanged considerable correspondence among themselves and

with various organizations and officers of other Bar organizations, all of which, if desired, will be made available to our successors. Our committee learned that the Bar Associations of the State of Georgia and the City of Buffalo, New York, have been active in this field. The Buffalo Bar Association kindly sent us a report of its committee which has accomplished a great deal of work, including speeches at theatres and over the radio, as well as publication of articles in various newspapers or magazines. It also published articles in the Law Journal and offered prizes in some of the Law Schools for essays on the general subject of "The Bar and the Public". Some of the Law Journals have created a department dealing with the relations of the lawyer to the public. We carried on extensive correspondence with the Secretary and Chairman of the Special Committee of Public Relations of the American Bar Association and also with Honorable Henry B. Nathan, Chairman of the American Bar Committee of Public Relations.

The American Bar Association has presented a radio program in which a great many interesting subjects respecting public relations of the Bar were discussed. We ascertained that the Public Relations Committee of the American Bar Association is in a formative period; that it is trying to work out a program which will, over a long period of time, improve the relations of the Organized Bar with the other members of the Bar, as well as with the public in general. It appears to be generally considered that an effective public relations consists of two things: (1) doing something for the benefit of the public and (2) letting the public know about it. The Public Relations Committees in various states have pursued several different activities, such as:

1. Creation of a legislative committee to keep an eye on proposed legislation; to endorse favorable and oppose unfavorable laws. (New Hampshire State Bar Association)

2. Consultation by the governor with reference to judicial appointments. (Rhode Island Bar Association)

3. Campaign to suppress loan sharks. (Knoxville Tennessee Bar Association)

4. Enactment of legislation eliminating justices of the peace. (Knoxville Tennessee Bar Association)

5. Warning injured persons against improper solicitation by ambulance chasers. (Bar Association of Baltimore City)

6. Essay contest on American citizenship subjects. (The Bar Association of the City of New York)

We also found that the Association of the Bar of the City of New York has participated in meetings and discussions at which were considered various possible methods of developing and improving the public relations of the legal profession, including such subjects as the elimination of any prejudice that may exist against the legal profession, the bringing together of lawyers and prospective clients desiring their services, the

stimulation of greater recourse on the part of laymen to the services of the legal profession, the establishment of legal clinics, the establishment of employment bureaus for lawyers, and the inauguration of a program of public education through newspaper advertising and radio broadcasts.

It occurs to our committee that our Association may do much constructive work in the field of public relations.

Respectfully submitted,

George W. Currie
Richard Denman
Louis M. Jiggits

THE AMERICAN BAR ASSOCIATION IN COOPERATION WITH STATE AND LOCAL ORGANIZATIONS

ELBERT JOHNSON

Here near the close of the agenda and just preceding the address of the principal speaker, there can be no doubt that the members of the Bar are anxious for my remarks to be brief.

> "Since brevity is the soul of wit,
> And tediousness the limbs and outward flourishes,
> I will be brief."

In the quotation, wit means wisdom, I understand, of which I lay claim to little, but of brevity I have much, if it be not paradoxical to say much briefness.

In an after-dinner speech the late Senator Depew said, "I wish to call your special attention to the subject assigned me, for I shall not have occasion to advert to it again." However, I shall stick to my text. I have been placed on this program to speak on the work of the American Bar Association in cooperation with State Bar activities, by virtue of my being the State Bar representative in the House of Delegates.

At the meeting of the House of Delegates in Chicago last January, one hundred and forty-eight members were present and about the same number were present at the meeting the preceding January. Unfortunately, I was unable to attend the annual meeting in San Francisco, but your State Delegate, Mr. Hubert Lipscomb, was there as well as at the meeting last January. I may here interpolate that each member of the House of Delegates was requested to obtain as many applications as possible for membership in the American Bar Association, and Mr. Lipscomb procured a number far in excess of anyone else—thirty-three, I think.

The House of Delegates is the policy-making and governing body of the American Bar Association. It is the Board of Directors in which is vested the control and administration of the Association. Each state bar association is entitled to have at least one delegate in the House of Dele-

gates, but in those state associations having in excess of two thousand lawyers according to the last preceding census, are entitled to one additional delegate for each additional thousand lawyers above two thousand, except that no state bar association may have more than four delegates. Most of the states, like Mississippi, have the state delegate and one state bar delegate. Here the latter is elected by the Mississippi State Bar and the former by the members of the American Bar Association residing in the state.

The chairman of each section of the American Bar Association, and, in his absence, the vice-chairman, is a member of the House of Delegates. Other groups, such as the American Judicature Society and the American Law Institute, are represented in the House by their presiding officers. The attorney general and the solicitor general of the United States and certain others are members of the House by virtue of their office. The Assembly selects five members. So there is a possibility of approximately two hundred members.

The state delegates at a meeting held not later than seventy days before the annual meeting nominate the President, the Chairman of the House of Delegates, the Secretary, the Treasurer, and such members of the Board of Governors as are required to fill vacancies occurring in any one year; notice of the nominations must be given to all members, and, not later than forty days before the opening of the annual meeting, 200 members of the Association, of whom not more than 100 may be accredited to any one state, may file with the Secretary a nominating petition making other nominations. The election is then held by the House of Delegates.

The outstanding feature of the American Bar Association organization is the Section system. At present there are thirteen sections. A member of the Association may belong to one or more of them. The Section of most interest to the Mississippi State Bar, as an organization, is the Section of Bar Organization Activities. The primary purpose of that Section is to encourage contacts between the American Bar Association and the state bars, to create closer relations between them and coordinate their activities. To that end, regional conferences between members representing the American Bar Association and members representing the state bars were recommended. During the year 1939 and in the latter part of 1938, four such conferences were held—in Kansas City, Columbus, Ohio, New York and Atlanta. All were reported to have been well attended and successful, resulting in an increase in interest in the American Bar Association and in the associations of the states participating in the conferences. The presidents and the Commission of the State Bar have advocated the formation of associations in each circuit court district. These are relatively regional conferences. Many have been organized, and their utility proved, so that it is needless to urge their continuation, but only a larger attendance at the meetings. On the whole, the work and method of operation of the Mississippi State Bar compares favorably with other state bar associations.

A regional conference was held in New Orleans in March of the current year, embracing the states of Arkansas, Louisiana, Mississippi, Oklahoma and Texas. From these states seventy-five or more representatives were present. Our own state was represented by the vice-president of the Mississippi State Bar, the secretary and the two members of the House of Delegates. Keen interest was manifested in the meeting, and numerous informative talks were made, among which of special note were the informal remarks of Mr. Beardsley, the President of the American Bar Association. A detailed account of the meeting may be found in the June issue of the American Bar Association Journal.

Another recommendation for the promotion of mutual activities and coordination of efforts between the American Bar Association and the state bar associations was that members of the House of Delegates be permitted to appear before the annual meetings of the state associations and explain the set-up of the American Bar Association and what it is doing in this reference for the amelioration of the American Bar and the state bars and the advancement of the profession. Hence my appearance before you.

Proceedings

of the

Fourth Annual Meeting

of the

Junior Bar Section

of the

Mississippi State Bar

Held at

JACKSON, MISSISSIPPI

June 26, 1940

PROCEEDINGS OF THE FOURTH ANNUAL MEETING OF THE

Junior Bar Section

Held in the City of Jackson, Mississippi, on the 26th of June, 1940

The meeting was called to order by Mr. Charles A. Sisson, Chairman. After expressing his thanks to the chairmen and members of the various committees for work which they had done, Mr. Sisson proceeded to call for reports from the committees. The first report was from Division "A" of the Committee on Cooperation with Young Lawyers. The report was presented by the Chairman, Mr. Stokes V. Robertson, Jr.

REPORT OF COMMITTEE ON COOPERATION WITH YOUNG LAWYERS

DIVISION "A"

This committee has written a personal letter to each of the twenty-two members of the senior class of the University of Mississippi Law School. In this letter we issued a cordial invitation to attend the convention of the Mississippi State Bar, especially the meetings of the Junior Bar Section. We pointed out the opportunities of meeting the older members of the legal profession afforded them at the annual convention and stressed the helpfulness of the progress planned. The featured speakers of the convention were also listed.

The chairman of the committee has corresponded with the members with reference to making a survey in their immediate localities of possible openings for young lawyers and the results of this survey will be made available to any young lawyer interested in locating in south Mississippi in or close to Jackson, Pascagoula, Biloxi, Collins, or Vicksburg, the locations of the members of the committee.

Respectfully submitted,

Stokes V. Robertson, Jr.
O. L. McLeod
Thomas J. Wiltz, Jr.
W. W. Dent
Leonard E. Nelson

On motion of Mr. Leonard Nelson the report was adopted.

Mr. Eugene Thompson, chairman of Division "B", then gave the report of that committee.

REPORT OF COMMITTEE ON COOPERATION WITH YOUNG LAWYERS

DIVISION "B"

This division of your committee undertook the pleasant task of cooperating with young lawyers by personally contacting the largest pos-

sible group located in the northern section of Mississippi, that is to say, the senior class of the College of Law at Ole Miss. It is hard to say just what benefits were derived by the group before whom the members of the Committee appeared, but the Committee enjoyed the occasion immensely and strongly recommends that the Junior Bar Section provide for the continuation of the practice of having several of its members meet annually with the members of the graduating class of the Ole Miss Law School.

The meeting this year was held on the morning of May 11th, through the cooperation of Judge T. C. Kimbrough, Dean of the College of Law, at which time there were present for the committee Hon. Hugh N. Clayton of New Albany, Mississippi, Hon. John W. Wade of University, Mississippi, and Hon. Eugene Thompson of Marks, Miss., chairman of this Division.

Mr. Wade introduced the visiting members of the committee, and a report was made to the members of the class by Messrs. Thompson and Clayton relative to the survey made by them as to locations for those members of the class who had not found places following graduation. Following this report, Mr. Wade presented data showing population trends in Mississippi, and a progress report of the State Planning Commission, as well as service bulletins of the State Tax Commission, all of which were left to be more fully examined by the class.

A round table discussion followed, at the conclusion of which the meeting adjourned.

Respectfully submitted,

Eugene Thompson
Hugh N. Clayton
John W. Wade

Now, gentlemen, the main thing that this committee wants to say to you is that the practice be strongly approved of having some member, some committee, appointed by the Chairman of the Junior Bar Section go over to Ole Miss each spring to present to the members of the Senior class something in the way of an invitation or announcement to them expressing the interest of the older lawyers. As this report tells you, I don't know what benefits members of the senior class derived from the meeting. It is hoped that they did get some. It was a lot of fun and a real pleasure to make the survey that Mr. Clayton and Mr. Wade and I made. In my own case, I made a survey of every county west of the Illinois Central, south of the Tennessee line, and down to the Columbus & Greenville Railroad line. That means going into each county, examining the dockets of the chancery and circuit courts and county courts, where there were county courts, and compiling definite statistical information with reference to the legal business as reflected by those dockets.

We took that to Ole Miss and gave it to the members of the senior class for whatever it might be worth. To the surprise of the committee, every member of the senior class had a place to practice following gradua-

tion. I think some seven or eight indicated that they had no place in mind, and it is hoped that that survey meant something to those who had no immediate plans with reference to practice.

The committee hopes that the Junior Bar Section will keep up this practice. It lets those young fellows and young ladies know that the older lawyers are interested in them. When we got out the older members proceeded to take us to the bar of justice and beat us over the head with everything but the legs of the table, and while I think that is still legitimate practice, we want them to know that we, the members of the Junior Bar Section, welcome them into the practice with us.

On motion of Mr. Thompson the report was adopted.

Mr. Sisson then called on Mr. George M. Ethridge, Jr., who presented the report of the Committee on a Bureau of Identification, Investigation and Statistics in Mississippi.

REPORT OF COMMITTEE ON A BUREAU OF IDENTIFICATION, INVESTIGATION AND STATISTICS IN MISSISSIPPI

At the last meeting of the Junior Bar Section in June, 1939, the Junior Bar Section unanimously recommended resolutions to the Mississippi State Bar endorsing the proposed bill and providing for a committee to present same to the Mississippi Legislature in its regular 1940 session. Copies of these resolutions are recorded in the Mississippi Law Journal of August, 1939. The personnel of the committee is shown by the attached list of the membership duly appointed.

In January, 1940, Honorable Howard McDonald, a committee member, and your chairman jointly introduced this bill, endorsed by the State Bar Association, in the House of Representatives, same being House Bill No. 71. As a result of the splendid cooperation on the part of each member of your committee throughout the state, the Judiciary Committee of the House of Representatives, to which the bill was referred, gave the matter its most careful consideration. The procedure followed was to appoint a sub-committee consisting of Honorable Howard Dyer, Jr., Richard L. Watson, and Tyler Holmes, which committee made a very careful study of the proposed bill and reported their findings to the Judiciary Committee En Banc at its regular meeting. In order to fully present the subject dealt with in the bill, your Junior Bar Committee arranged for hearings before the Committee En Banc, at which hearings various member of the Legislature appeared and discussed the features, advantageous and disadvantageous, of the proposed bill. Your committee presented to the Legislative Committee as authorities on the subject the Honorable Walker Broach, Jr., former District Attorney of Meridian, Mississippi, and author of the original bill, and also Honorable Arthur G. Busby, Circuit Judge of Waynesboro and Meridian, Mississippi. The Judiciary Committee En Banc, after careful study and lengthy consider-

ation, reported the bill "Title Sufficient, Do Pass", and it took its place on the House calendar.

It is useless for me to endeavor to present or analyze the various problems that presented themselves to the Legislature on or about February 5, 1940, and thereafter until the end of the session, February 5 being about the time that this bill was reported out of the committee. Your committee worked diligently in an effort to present the need for legislation creating a Bureau of Indentification, Investigation and Statistics and the benefits to be derived from such legislation in the enforcement of the criminal laws of our state before calling the bill up for consideration on the floor of the House of Representatives When it was finally called up for consideration on final passage, the budget for the 1940-41 biennium was very indefinite, and the Ways and Means Committee was endeavoring to provide the necessary revenue for the financing of a large program for the people of Mississippi. The bill was defeated when the vote was taken, but lacked only a few votes of passing the House. About the only objection presented was the cost of such a bureau and the lack of finances to defray the necessary expenses.

Your committee presents these facts, not for the purpose of an alibi, but in order to explain the conditions of the Legislature and the circumstances surrounding the defeat of this much needed legislation. It is our opinion that the same conditions still exist that were prevalent at the time the Junior Bar Section of the Mississippi State Bar passed on this matter and endorsed the proposed bill for presentation to the Legislature. There seemed to be several objections to particular features of the bill presented, which features were corrected and remedied by several amendments proposed in the committee and on the floor of the House. However, in view of the several objections and the thought on the part of several members of your committee, we deem it wise and best to redraft the bill between now and the 1941 meeting of the State Bar Association for the purpose of eliminating the objectionable features from administrative, legislative, or constitutional standpoints, and to present said redraft or rewritten bill back to the Junior Bar Section and the Mississippi State Bar at their next regular meetings with recommendations for their reconsideration.

Your committee realizes that this task is a difficult undertaking but wholly worth while in every respect. History evidences the fact that "Rome was not built in a day" and that the outstanding and advantageous features of our city, county, state, and national governments were written into law because of the sincere, earnest, and tireless efforts of the advocates who visualized the many benefits which would accrue to the *people* as a result of their efforts. For an example, we need only to cite the newspaper reports of the organized activities within the borders of the State of Mississippi on the part of those engaged in the business of crime and criminal activities of every nature which appeared in the same newspaper that reported the defeat of your bill providing for a Bureau of Criminal Identification, Investigation and Statistics. The Mississippi State Planning Commission, throughout the year of 1939 and the first

part of 1940, conducted a survey of the judicial criminal statistics for the eighty-two counties, and for your consideration I quote the following as an excerpt of a letter written by Honorable L. J. Folse, Director and Secretary, as follows, to-wit:

"The shameful position of Mississippi, as reflected in the bulletin on homicides enclosed herewith, is a challenge to the leadership of this state.

"We have witnessed the shameful exploitation of the pardon system in Mississippi to a degree perhaps not surpassed elsewhere.

"We are just completing our study of the judicial criminal statistics for the eighty-two counties. A review of these facts justifies the opinion I have had about the matter for twenty years, that is that criminal procedure in Mississippi is in the interest of the criminal and not society.

"If we can ever get the public mind as much concerned about the widow and the children of the murdered husband as the public is about the murderer, then and only then shall I have hope that it will be a more serious offense to murder a human being in Mississippi than to steal a pig.

"Judge Busby, as you doubtless recall, startled the legal profession and excited the admiration of thoughtful people some months ago when he discharged a jury panel because his investigation disclosed that the jurors before him in court had been on continuous panels for fourteen years.

"The recent developments in Harrison County show an equally appalling situation. Since June, 1936, where, because of the necessity for contacting a large number of people in the development of our program, I have addressed not less than 75,000 people in the eighty-two counties and a minimum of 5,000 in the South outside of the state. In each case I have put this question to those present: How many present here have served upon a criminal jury within the past five years? Less than one out of 1,000 in the city groups and less than one in 500 in rural groups raised his hand indicating jury service.

"This is an indication of the exploitation of the jury system and of the unbelievable indifference of the average thoughtful American to the crime problem of this nation.

"Editors of newspapers, particularly in the South, in discussing the crime situation, uniformly attribute the shameful crime record of this nation to our foreign born element. The facts disclosed, however, that in the South, with but a fractional part of our population foreign born, we led the world in the slaughter of human beings; and the responsibility for most of it, of course, can be traced to the almost lack of respect for state courts and members of the legal profession.

"The F. B. I., under the able direction of Mr. Hoover, is the only assurance I have that the wholesale murder of 10,000 people per year at a cost of $15,000,000,000 is being checked. The responsibility, how-

ever, is not upon Mr. Hoover and his splendid and courageous staff, but upon the legislative bodies of the State and National Congress to reconstruct criminal and judicial practice in this nation so that the courts will be operated in the interest of society and not in the interest of the criminal."

THEREFORE, with this problem confronting each and every member of this association as leaders in their respective cities and communities throughout the state, your committee feels it its duty to recommend to the Junior Bar Section the following, to-wit:

(1) That the Junior Bar Section continue its present committee with a different personnel, the selection of same to be left to the discretion of the chairman of the Section, and that the new committee be clothed with the duty and responsibility of redrafting and rewriting the bill which has been endorsed by the Mississippi State Bar Association in order to eliminate any objectionable features from an administrative, legislative, or constitutional standpoint; and, further, that the said committee be authorized and directed to continue the work that has been started by this association to the end that the laws of the State of Mississippi will be written in such form as to cope with the crime problem in our state.

(2) That this committee be clothed with the duty and responsibility of studying the statutes and laws of Mississippi on crimes and misdemeanors, criminal procedure, and the prosecution of those violating said laws, and of recommending to the Junior Bar Section at its next meeting any necessary amendment thereto or any new statutes or criminal law and procedure it might deem advisable.

(3) That the Junior Bar Section present in the form of a recommendation to the Mississippi State Bar a resolution providing for the appointment of a committee of its members to be selected from the various districts of our state for the purpose of cooperating with the Junior Bar committee and assisting it in performing its duties on this subject.

Respectfully submitted,

George M. Ethridge, Jr.
James P. Biedenharn
Robert Hauberg
J. Gordon Roach
Howard McDonnell
Charles Gordon
Jamie Whitten
Breed O. Mounger
Berry Brown
David Cottrell, Jr.

This report was supplemented by a single newspaper clipping which described the action of the legislature in regard to the bill for the creation of this Bureau on Identification, Investigation and Statistics, and by a number of other clippings taken from the same newspaper and showing the wide prevalence of crime, thus indicating the urgent need for creation of such bureau.

On motion of Mr. Hugh N. Clayton the report was adopted with the amendment that the new chairman of the Junior Bar Section not be

required to appoint a different chairman but be empowered to select anyone.

Mr. Marcellus C. Green then presented the report of the committee on Pleading, Practice and Procedure.

REPORT OF COMMITTEE ON PLEADING, PRACTICE AND PROCEDURE

The Junior Bar Section adopted and proposed a plan whereby the members of the entire bar could register their desires with the secretary of the State Bar to have our Supreme Court appoint a committee to draft a new system of Practice and Procedure, which rules of procedure would supersede the former mode when promulgated officially by our Supreme Court.

As far as specific recommendations on any given change is concerned, we have none to offer. At our last meeting the Junior Bar Section registered its approval of the new rules and procedure by about a two to one majority. Therefore, in view of this blanket approval by the Junior Bar Section, it is our belief that this committee should concern itself more with the problem of how to carry out the will of the Junior Section, at our last meeting, than with anything else.

When and if the Bar gives its consent to the appointment of a committee to draft a new system of rules, then is it time, in our opinion, for the fruitful discussion and the making of recommendations on the adoption of specific rules or phases thereof contained in the recently promulgated rules of procedure. In other words, we think we should concern ourselves mainly at this time with the task of convincing the bar as a whole that the integration of the civil procedure rules into our practice would be an efficacious and worthwhile amendment to our present system, this to be accomplished by discussion of these rules in order to create a favorable reception at the proper time.

At the recent executive committee meeting, the trend of opinion was in favor of the elimination of overlapping functions of two committees by restricting the scope of activity of one of them.

It so happens that the Code Committee has been unusually active and successful in its efforts. Such suggestions, as the propriety of enacting a Uniform Declaratory Judgment act and of providing for the appointment of a Master in Chancery to handle certain probate matters, particularly in the more crowded areas of the state where the chancellors are already overworked, could easily be handled by the Code Committee, although, to a certain extent, within our domain.

We recommend to the Junior Bar meeting that the work of this committee be confined solely to a study of the means of integrating the Federal Civil Procedure rules into our practice.

Marcellus C. Green, Chairman
Charles D. Fair
Matthew Harper, Jr.
Jack H. Ewing
Henry E. Barksdale
Robert E. Perry
Dugas Shands
Schuyler Poitevent, Jr.
H. B. Gardner
Webb M. Mize
Frank E. Everett, Jr.
N. W. Overstreet, Jr.
Leonard Nelson

The report was adopted.

Mr. W. Calvin Wells, Jr., presented the report of the committee on Public Relations.

REPORT OF COMMITTEE ON PUBLIC RELATIONS

It was suggested to the committee that the committee could best serve the bar of the state by acquainting the public generally with the code of ethics of the bar. The committee is widely scattered. The personnel of the committee is composed of members from Baldwyn to the extreme southern portion of the state, and it was obviously impossible to get the entire committee together. As chairman of the committee I corresponded with various member of the committee, and we decided that the best way to get this matter before the public was by a series of newspaper articles That required two things, first, the drafting of those articles, and, second, getting the articles published in the newspapers. In meeting the first objective we called on Judge T. C. Kimbrough of the University and requested that he assist us. Judge Kimbrough very kindly forwarded to us a paper prepared by one of the members of his class on Legal Ethics. Unfortunately, the paper did not exactly suit the idea that we had in mind; the material was not what we wanted.

We then called on the American Bar Association and were furnished some material, but after examination it was found not to be suitable. The committee also took up the matter of publication of these articles with several newspaper men, and was advised that unless the articles were of general public interest they would not be published in the newspapers without the newspapers being paid therefor. The committee had no funds whatever to pay any one for publishing these articles, and I regret to state that we were unable to get these articles printed in the paper. I might say here we could have had them drafted by some one skilled in the drafting of newspaper articles, but again we were faced with the problem of having no money to operate on.

As I stated a while ago, the committee is widely scattered. I was hopeful of getting the committee together this morning, but was unable to do so. I have given the matter a great deal of thought, and it is my personal idea that it is not practical to get these articles published in the various newspapers; that they will not have sufficient news value to warrant their publication, and we do not have funds to have them published and pay for their publication.

It has occurred to me that this committee could probably best serve the bar of the state and the people of the state by putting on an educational program in the high schools of the state and bringing to the attention of the high school students of the state the bill of rights of the Constitution. Now that may seem a rather trite thing, but I venture to say there is not a man in this audience who has read the bill of rights since he left law school. I picked up my Code a moment ago and read the first ten amendments to the Constitution. At this time when three-fourths of the people of the world have no liberties and no rights, I do not think we could serve a better purpose than to instill in the young people of our state the knowledge of the protection thrown about them by that Constitution. I think if we could arouse their enthusiasm, call to their attention these safeguards and these rights, we would do a great service. I think all thinking people know that the next few years ahead of us, regardless of what happens in Europe or elsewhere, are going to be hard years, lean years, and if this country is to survive, our people must be willing to protect those rights.

So I recommend, as chairman of the committee, as I was unable to take it up with the committee, that we confer with the superintendent of the State Department of Education, and that we arrange for members of the Junior Bar Section to speak in all of the high schools of the State of Mississippi next fall on the subject that we have just mentioned.

Respectfully submitted,

W. Calvin Wells, Jr.

A motion to adopt was made by Mr. Robert E. Hauberg. An amendment by Mr. Nugent Shands to the effect that a chairman be appointed for each county was discussed and finally tabled on the ground that the machinery should be left to the committee after it should be appointed. Amendments to the effect that junior and senior colleges be included were made and withdrawn, and, after some slight confusion, the chair expressed the motion before the house as taking the following form: That the Junior Bar Section "Go on record as instructing the incoming Chairman to name a Public Relations Committee, charged with the duty of cooperating with the State Superintendent of Education in carrying on a program in high schools—and, if they see fit, the junior and senior colleges—to instruct the young people of our state in reference to the Bill of Rights and the privileges that they enjoy thereunder and in reference to other rights under our constitution." In this form, the motion was passed.

In the absence of Mr. Harvey Lee Morrison, chairman of the committee on admissions to the Bar, the report of that committee was presented by Mr. W. Coleman Branton.

REPORT OF COMMITTEE ON ADMISSIONS TO THE BAR

In submitting herewith the report of the Committee on Admissions to the State Bar, we wish to say that the information and recommenda-

tions herein proposed were gathered both through personal contact and by mail. Necessarily, however, most of the conclusions arrived at were by way of correspondence between the chairman of the committee and its various members, and the report submitted herewith contains the concensus of opinion of the various members as gleaned from the correspondence had. It might be well at this point to add that no recommendations listed herein are prompted by political persuasion nor any remarks intended to be construed as criticism of any kind on any present or past member of the State Board of Bar Examiners. In other words, the discussion is directed to a system and not to the individuals composing the system.

Most of the members of the committee were very generous in their responses to the letter of the chairman requesting suggestions and recommendations which they believed would improve the present setup or requirements affecting admission to practice law in this state. Some were of the opinion that additional subjects should be added to the list of those now required by law upon which questions should be propounded; some felt that the field of law covered was wide enough, but that in order to raise the standard of admission there should be a more stringent administration of the requirements now in force, and it was practically the unanimous opinion of the committee that requirements for admission should be raised.

The present Board of Bar Examiners consists of three members, each of whom is, as required, a member of the State Bar, one examiner being appointed from each of the three supreme court districts and each holding office for a term of two years. The law sets out the mechanics of applying for admission to the State Bar and that each applicant must be a citizen of the United States and of this state, above the age of 21 years, of good moral character and possessed with the equivalent of a high school education. With the exception of these stipulations, the admission or rejection of a person seeking a certificate to practice law in Mississippi, excluding graduates of the University of Mississippi Law School, lies wholly within the discretion of the Board of Bar Examiners. In other words, they select the questions to be propounded to those taking the examination, grade the papers, and determine what shall constitute a passing mark. They also have the authority to select any other subjects they may deem proper for purposes of the examination in addition to those listed in Section 3685 of the Code of 1930.

Under existing law, the Board of Bar Examiners is subject to change every two years at the pleasure of the Governor, and experience has shown that the personnel is changed with practically every new administration. It was the sense of this committee that the term of office should be extended for a longer period of time and that, instead of the Board being composed of any three members of the State Bar it should be standardized by allowing various elements of the legal profession to be represented in order that a better uniformity in the requirements for admission to the bar be obtained. In other words, members of the Bar Board should be appointed by the Governor for a term of at least six years with a stipula-

tion that this Board consist of the Dean of the University of Mississippi Law School or a member of the faculty, the Chief Justice of the State Supreme Court, and a third member to be a general practitioner of the Mississippi Bar. In this manner the Board would consist of representatives from the various phases of the legal profession, and its members would hold office long enough to benefit from their own experience. It is not a simple or easy matter for the average lawyer with no experience in teaching to be appointed as a member of the State Board of Admission and to work out a list of questions which are sufficiently difficult and broad of field to properly test the learning and ability of an applicant as to his fitness to enter the practice of law in this state. With the set-up above suggested, each field of legal endeavor would be represented, with the resulting benefits to accrue therefrom that the board would have the benefit of the view of the pedagogue with his knowledge and experience in assimilating and extracting the important and vital principles of law upon which a person seeking admission should be tested; the benefit of the judgment and experience of a member of the judiciary who has had opportunity to well judge the necessary legal foundation and requisites of a successful lawyer; and, thirdly, it would have the benefit of the hardened and sound judgment of a general practioner.

It is our information that at the present time the Board of Bar Examiners has laid down its regulation that before a person can pass the state bar examination he must make an average grade of 70 and can not make less than 50 on any one subject. To show the manner in which admissions to the State Bar fluctuate—according, no doubt, in large measure to the strictness in the requirements and grading by the membership of the state board which may then be in office, we are informed that the percentage of those passing the bar during the past ten years ranges from 50 to 90 per cent of the number taking the examination. This large variance we believe cannot possibly be attributed solely to the ability or lack of ability of those standing the examination but, no doubt, is largely governed by the subject manner of the examinations and the method of grading the same. Your committee does not feel that the standard of admission to the state bar could be elevated through the enactment of any statutes setting out a more comprehensive list of subjects upon which the applicant should be tested, or the minimum grade which he should make, or any requirement as to age, etc. In other words, we feel that the desired result can be obtained only through a change in the method of selection of the membership of the Bar Board; since, no matter what statutory regulations may be enacted, in the final analysis, a correct determination of the applicant's competency to practice law will depend upon the judgment, discretion, experience, and qualifications of the members of the Bar Board, and their ability properly to fulfill the duties and obligations of their office. We believe that through a system as above outlined the requirements could be raised and that the system could be standardized.

There was presented in this committee, as there probably has been in discussions of this kind at all times before, the proposal that before a

person be admitted to practice law in this state he or she should be a graduate of an accredited law school. This, of course, would probably materially assist in raising the standard of the legal profession in Mississippi, but at the same time it might in some instances work a decided injustice. We feel that it would be much more preferable to approach the problem through a more efficient and stringent system of testing the fitness of applicants.

Although we hold no pride of opinion as to just what system should be established, so long as it is in accordance fundamentally with the one outlined herein, in order to present a specific and concrete proposal we suggest a changing of the present law so as to have it provide, first, that the State Board of Bar Examiners shall consist of three members whose terms of office shall be six years and who shall be appointed by the Governor, one of whom shall be the Dean of the University of Mississippi Law School, one the Chief Justice of the State Supreme Court, and the third a general practitioner of the Mississippi State Bar who shall have been engaged in the practice of law in the state for not less than ten years.

Respectfully submitted,

H. L. Morrison, Chairman

APPENDIX TO COMMITTEE REPORT

MISSISSIPPI LEGISLATURE REGULAR SESSION 1940

Senate Bill No. 49 (as passed by the Senate)

AN ACT TO AMEND SECTION 3 OF CHAPTER 122, LAWS 1932 REGULAR SESSION TO PRESCRIBE REQUIREMENTS FOR ATTORNEYS FROM OTHER STATES TO PRACTICE LAW IN THE STATE OF MISSISSIPPI AND SET A PENALTY FOR THE VIOLATION THEREOF.

SECTION 1. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI, That Section 3 of Chapter 122, Laws 1932 Regular Session, be and the same is hereby amended to read as follows:

"Section 3. (a) Any person duly authorized and practicing as an attorney at law in any state or territory of the United States or in the District of Columbia may practice as such in the courts of this state as a visiting attorney upon producing before the courts in which he intends to practice satisfactory evidence of his being so authorized. But this section shall not be construed as allowing such attorney to practice law in this state as a resident attorney on a license granted by another state or territory or by the District of Columbia. An attorney at law licensed to practice as such under the laws of another state, territory, or the District of Columbia, who shall desire to practice law in this state as a resident attorney must be a qualified elector of the State of Mississippi before attempting so to practice in this state. But nothing herein contained shall be construed as affecting the rights or status of attorneys admitted to practice in this state, at or before the time this act takes effect.

"(b) Any person violating any provision of Section 1 of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or be imprisoned in the county jail for not more than six months or both in the discretion of the court."

SECTION 2. That all laws or parts of laws in conflict therewith are hereby repealed.

SECTION 3. That this Act take effect and be in force from and after its passage.

The committee recommends the enactment of this bill with the following amendments:

Amend Senate Bill 49 by changing the words "qualified elector" and adding therefor "one year residence".

Also add at the end of sub-section A of Section 1 the following:

> "Provided further that nothing in this act shall prohibit any one from taking the State Bar Examination and being admitted to practice law in Mississippi."

A motion to adopt was complicated by numerous amendments. Argument on the merits of the report was as follows:

MR. GEORGE R. NEBLETT: By naming one of the Supreme Court Judges as one of these particular officers, I am just wondering—just making this as an observation—if in being appointed to a Commission they then become public officers, and if that would not then be unconstitutional, and if we recommend the report reflecting this suggestion, and I am just wondering if that might not reflect on us. For this reason I think that the report should be referred to the new committee for their report at the next meeting.

MR. ROBERT E. HAUBERG: I have been working with the Junior Bar Section since its commencement, since its organization; a more splendid organization I do not believe we have in the State of Mississippi for the development of our young men and young women coming along in the practice of this profession. However, I am opposed to this report, for reasons some of which you may already know; others I will explain to you in addition to this.

Take the report by itself. There is one provision in the report that says—when I say this please bear in mind that I have no grievance against anybody, and that I am simply trying to explain my view—there is a provision that the next members of the Bar Commission or members of the Board of Examiners—I think the statute now provides that it shall be a Board of Bar Admissions, composed of three members, and the change suggested is that the Chief Justice of the Supreme Court shall be selected as one for 6 years. It is my understanding that he is elected for a period of 8 years. He would have to be reappointed again.

Let's take also the Dean of the University, a very splendid gentleman and my personal friend. I think he would make a splendid examiner, but he would serve for 6 years and then would have to be re-selected or re-nominated or re-appointed. There are other important things we want to put through—the subject of Mr. Wells' report on Public Relation dealing with the Constitution and bill of rights; you don't want to come along and block anybody who might want to take the examination. It is true we may change certain provisions affecting the conditions under which applicants may take the examination to practice law, but we should not do anything to close the door of opportunity to those young men and women who want to practice, who want to realize their ambition to become one of the best of the great bar of Mississippi, and I think it is one of the best bars we have in the United States. I think you can do more to help our people and to help the legal profession by bringing about these important factors.

I am opposed to the report for another reason. It says—

MR. JAMES A. BLALOCK: Will the gentleman yield to a question? Do you think that any one who wants to practice law should be permitted to practice law?

MR. HAUBERG: No. It is my idea that if a person takes the examination and the examiners pass him, it should be an adequate test of his ability to commence the practice of law, provided he has met all of the statutory requirements.

MR. BLALOCK: Your contention is that anyone should be permitted to take the examination, without restrictions, and then that those who know enough to pass should be admitted to practice?

MR. HAUBERG: I will say this: in my humble opinion we have, I think, sufficient requirements at the present time. I think the examining board that we have may give you a very stringent examination and in the grading ascertain whether or not you know sufficient law to pass that examination.

MR. BLALOCK: Is your concern for those unfortunate ones who are not permitted to take the bar examination or for those more unfortunate ones who take the bar examination and fail to pass?

MR. HAUBERG: I did not make any reference to that. What I was talking about was the statutory requirements we have at the present time, and I will reiterate that I believe that they are sufficient at the present time. We have a three-member Board of Bar Examiners. When the questions are prepared and the applicant presents himself to the Board, takes the examination, and the papers are graded and his grades indicate whether or not the applicant has sufficient learning to pass that examination, he should be permitted to practice law if he is fully qualified.

MR. BLALOCK: Is it your understanding that this report proposes any additional restrictions on the right to apply to take the bar examination?

MR. HAUBERG: No, I did not anticipate the report to mean that, but I do anticipate the report to mean that you would have possibly some conflict, some constitutional question, as to the appointment of these members to the examining board.

MR. BLALOCK: In other words, the report would not prohibit any one from taking the examination who is now qualified to take it?

MR. HAUBERG: No, I do not think it does that.

MR. BLALOCK: And so you're simply afraid that if we have a better board of bar examiners fewer people will pass the bar examination?

MR. HAUBERG: No, I did not make any such statement. I am addressing my remarks to the opposition of the report.

MR. SATTERFIELD: I am obliged to disagree with my good friend Robert with reference to this report. I would like to rise to favor the report. I believe a suggestion has been made by Mr. Neblett that there may be some question as to the actual form of the report, but I believe that the best method of raising the standard of our profession is to provide for a stringent examination, and I believe when we have a very stringent and fair examination, that will necessarily result in raising of the standards of our profession.

While the actual set-up suggested here may not be correct, I believe the idea is good, and if the recommendation were adopted and passed by the legislature, it would mean a great deal to our profession in raising its standards. There have been suggestions by the members of the Junior and Senior Bar about the requirements of a literary education—graduation from an accredited school and other particulars—but I do not believe that would work in every instance. I have known instances in which boys were not able to obtain those requirements, and yet they would be able to pass a very stringent and fair examination. Therefore, I hope the Junior Bar Section will adopt the report of the committee.

MR. CLARK: Mr. Chairman, I want to comment on this motion to adopt, as one who did not have the opportunity of going to the University as I would like to have done very much. I did get a literary education at Mississippi State and Mississippi Southern, but I see lots of people coming to the bar by virtue of our not tightening up the ropes, so to speak, and I am very much interested in the question Mr. Wells discussed with reference to ethics. We have boys, young men, the best people in the country, starting out into the practice of law who have no conception of ethics and do not make any attempt to practice ethics. It is unfair to the lawyers and especially the young men. Frankly, making a Supreme Court Justice an examiner would be unconstitutional because of the provision in the constitution, but by all means that thought, in my opinion, is a good one, and unless we tighten up the ropes and do someting to raise the respect of the public for the bar, we are just as certain to self-destruction as we are standing and sitting here this afternoon.

We have been so particular to look after every other profession, every other business, and to direct the operations of large concerns, large corporations, through the years that we have completely forgotten to direct our own affairs, and the fact that the public do not regard the bar as it used to and as it should, is, I think, our own fault. I have known young lawyers to pass the bar who had never been known to pay an honest grocery bill. Things like that cause disrespect.

After some confusion as to parliamentary procedure was finally straightened out, motions were passed to the effect that the report be adopted; that it be referred to a new committee to draft legislation and to report back at the next session of the Junior Bar Section; and that any proposed legislation should not take effect until January 1, 1944.

The report of the Legislative Drafting Committee was presented by Mr. John C. Satterfield, Chairman.

REPORT OF LEGISLATIVE DRAFTING COMMITTEE

The legislative drafting committee got in touch with members of the House and Senate and Attorney-General's office and offered the services of the committee in connection with the drafting of legislation by members of the legislature. We found that there does not seem to be a place for a voluntary committee of this kind which is not expert. It is not in close touch, and cannot because of their profession, keep in close touch with legislation and necessities for legislation. As a matter of fact we had no calls for our services. When that report was made to the recent meeting of the Executive Committee of the Junior Bar Section, it was suggested that the committee consider the matter of the adoption of a recommendation to the legislature of the formation of a legislative drafting bureau along the lines recommended by the Junior Bar Section of the American Bar Association. During the short time intervening between this meeting and the present one we were unable to hold a committee meeting, and therefore the suggestions which is being made is made by me as chairman; and while several have approved it, I cannot officially speak for the committee as such.

Report Concerning Legislative Drafting Bureau To The Junior Bar Association Of The Mississippi State Bar:

Upon the submission of the report of the Legislative Drafting Committee of the Junior Bar Section of the Mississippi State Bar, the Executive Committee of such Section in response to suggestion of the Code Committee requested that the chairman of the Legislative Drafting Committee consider the advisability of recommending the establishment of a Legislative Drafting Bureau for the State of Mississippi along the lines of such bureau recommended by the Junior Bar Section of the American Bar Association.

After a thorough study of the suggestion of the Junior Bar Section of the American Bar Association we hereby recommend that the Junior Bar Section recommend to the Legislature of the State of Mississippi that there be established a Legislative Drafting Bureau.

The purpose of the Bureau is to provide a full time attorney whose duty it will be to study the statutes of the State of Mississippi and to recommend to the Legislature statutes which will remove inaccuracies and conflicts and supply omissions in the statutes of the state; to provide a means whereby the acts which are being considered by the Legislature may be checked with existing statutes involving similar matters and other acts being considered so that the same may be framed consistently.

Such Bureau would not only assist the Legislative Committees in the perfecting of the amendment of statutes and the drafting of new statutes, but it would aid materially in eliminating the numerous inaccuracies and conflicts which arise from time to time because of the lack of some means of codifying various legislative statutes.

It is recommended that the head of such bureau be appointed either by the Supreme Court, or by the Chief Justice of the Supreme Court, the Attorney General, and the Governor.

This, as I said, is simply a recommendation in response to the suggestion of the executive committee that the same should be considered. We have not attempted to make any set-up because the legislature will not meet until another year is passed.

The Chairman of the Judiciary Committee of the House asked if there was a need for such a service. The attorney-general offers the service of his office to the legislature, but he has a limited force and their duties are such that it is almost impossible for him to spare one to give entire time to this work. Thus it will take the place of a codifying committee when the new code is gotten out and do the work of the committee from time to time and keep out inaccuracies.

We recommend to the Junior Bar Section establishing such a Bureau.

Mr. Satterfield moved that the report and the recommendations be adopted and that the Junior Bar Section request its Chairman to appoint a committee to consider such legislation and to draft the same for further consideration of the Section. Mr. J. M. Stevens, Jr., spoke in behalf of this motion.

MR. J. M. STEVENS, JR.: Legislative draftsmanship is a delicate and difficult and rather specialized task, largely performed out of the Attorney-General's office, by the clerk of the House, and by the secretary

of the Senate. All those jobs are full-time, hard jobs, and the clerk of the House and the secretary of the Senate and the Attorney-General's office have ordinary business of their own sufficient to take care of their demands and talents. The average legislator is not a lawyer, and he will introduce legislation having some particular purpose in mind without respect to prior existing legislation on the subject. In other words, he does not draft with past legislation in mind so that his new legislation will dove-tail and fit into existing statutes on the subject; and as a result many inaccuracies will occur. Also there will be ideas which will overlap, and all of these imperfections will have to be reconciled in committee meetings or on the floor. There is no doubt in my mind that a full-time professional member of a bureau of legislative draftsmanship would save the state the expense of such a bureau, as the cost would come directly from the contingent fund of the legislature. It would reduce the necessary contingent appropriations made necessary because of draftsmanship work. The possibilities of service by a bureau of this character are almost limitless. It could annotate and perform various services respecting the revision of the code and maintenance of annotation service. It will assist state departments which are interested in legislation from time to time.

I am heartily in favor of recommending a bureau of this character. We have as a model to go by a model Legislative Drafting Bureau Act which has been carefully prepared by the Junior Bar Section of the American Bar Association and which could be adapted to the needs of Mississippi.

Mr. Satterfield's motion was passed.

The report of the Code Committee was then presented by its Chairman, Mr. J. M. Stevens, Jr. The written report follows.

REPORT OF THE CODE COMMITTEE

The function of this committee is, primarily, to report on inaccuracies, omissions and conflicts in the Code Law, and to make recommendations for their correction. It is not, as the committee conceives, created to report on needed enactments of substantive or procedural law, simply because the enactment of such acts would be wise legislation, except insofar as such enactment deals with the primary purpose for which the committee is created. It is extremely difficult, however, to adhere to the dividing line between creative legislation and remedial legislation; and doubtless the committee has overstepped the line, and your indulgence is respectfully requested in such instances. The scope of the work of this committee is extensive. Your Chairman served during the fiscal year 1938-1939 as Chairman of the Legislative Drafting Committee of the Junior Bar Section, a committee which also overlaps the work of the Code Committee. It is our understanding that one of our recommendations, dealing with the creation of a Legislative Drafting Bureau, is

concurred in by the Legislative Drafting Committee and will be submitted as the joint recommendation of the two committees.

In submitting our report, bearing in mind the necessary elements of time and space requiring extensive abbreviation, we will make only specific recommendations. They are as follows:

Section 1.

REPORT ON LEGISLATIVE TREATMENT OF THE PROGRAM OF THE CODE COMMITTEE APPROVED BY THE JUNIOR BAR AND STATE BAR AT THE 1939 MEETING.

(1) Recommendation No. 1 at the 1939 meeting was that the Supreme Court should be requested to amend Rule 7 so as to provide that briefs be filed earlier. This recommendation has been favorably received and approved by the Supreme Court, and the recommended rule is now in force.

(2) Recommendation No. 2 of the 1939 meeting dealt with an amendment to Section (f), Chapter 287, Laws of 1932, dealing with service of process on non-resident motorists, to provide that the statutes specifically apply whether the non-resident is personally operating the car or is operating it through an agent, servant, employee, chauffeur, etc. This act failed of adoption in the Legislature, but the Legislature did adopt Senate Bill No. 171, approved March 7, 1940, dealing with service of process on non-residents generally. Notwithstanding the adoption of Senate Bill No. 171, it is the sense of the Code Committee, concurred in by the Executive Committee, that proposal No. 2 of the 1939 Committee should be carried forward.

(3) The 1939 meeting recommended repeal of Section 5169 Code 1930. A bill passed the House to this effect, but was killed by the Senate. Your committee recommends that this proposal be carried forward.

(4) The fourth proposal of the 1939 committee provided for amendments to declarations any time before defense is filed, similar to the Chancery Court statute. A bill to this effect was killed by the Senate, and it is the sense of your committee that this proposal should be carried forward and again recommended to the Legislature.

(5) A fifth recommendation of the 1939 committee was that Sections 354 and 355, Code of 1930, be amended so as to clarify the procedure for removal of disability of minority. This proposal failed of enactment, and it is the sense of your committee that we should renew the proposal.

(6) The 6th proposal of the Junior Bar, approved by the State Bar in 1939, was in connection with approval of small claims of minors. This proposal failed of enactment, and your committee recommends that it be carried forward.

(7) Recommendation No. 7 was that Section 323, Code of 1930, be

amended. This recommendation met with Legislative approval by enactment in House Bill No. 610.

(8) Recommendation No. 8, an amendment to the Highway Safety Patrol Act for better marking of dangerous curves and hills, failed of enactment, and it is the sense of your committee that it should be carried forward.

(9) Proposal No. 9 of the 1939 meeting dealt with inheritance by the slayer of the person slain. This proposed statute was not introduced, and it is the sense of your committee that this body should again recommend adoption of this model statute.

(10) Proposal No. 10 was that whenever the court lacked jurisdiction because of improper venue, that the suit might be transferred. This proposal met with Legislative approval and was adopted in House Bill No. 613.

(11) Proposal No. 11, for a final record to be made in cases of removal of disability of minority, in order to preserve the record, failed of enactment, and it is the sense of your committee that the proposal should be renewed.

(12) Proposal No. 12 dealt with constructive service of process on corporations doing business in the State. It is contained in the Supplemental Report of the 1939 committee. This proposal failed of Legislative enactment, and it is the sense of your committee that the recommendation should be renewed. Part of this Supplemental Report dealt with service of process on individuals against whom causes of action might accrue out of acts done or business engaged in in the State of Mississippi. This is touched by Senate Bill No. 171. Unfortunately, your committee was not in position to adequately brief and discuss the provisions of Senate Bill No. 171, but doubtless this act of the Legislature will correct most of the deficiencies and defects respecting suits and process on non-residents, dealt with in Paragraph (A) of the Supplemental Report.

In concluding the portion of our report dealing with the recommendations of the last meeting, we wish you to understand that we could not withhold our committee meeting until the Legislature adjourned, and that it was necessary to formulate this report before the Session Laws were indexed and published in one volume, and the work of the committee was considerably more difficult because of these circumstances. As Chairman, I desire to express my hearty appreciation, and the thanks of the entire Committee, for the cooperation and assistance given by Hon. George Ethridge, Representative from Lauderdale County, who steered the 1939 recommendations in the House, and by Senator Robert Hauberg of Hinds County, who worked on the proposals in the Senate, both of whom were most kind and gracious in assisting your committee in keeping track with the Legislative Progress of the bills, and in reporting on how the bills fared at the meeting of your Executive Committee. These gentlemen did a fine piece of work in connection with our 1939 program, and we move that a vote of thanks be extended to them by this body.

Section 2.

It is recommended that Section 536, Mississippi Code of 1930, be amended so as to provide for a motion to strike a notice under the general issue and that the section be re-enacted so that it will read, as amended, as follows:

"AN ACT TO AMEND SECTION 536, MISSISSIPPI CODE 1930, IN ORDER TO PROVIDE THAT A NOTICE UNDER THE GENERAL ISSUE MAY BE TESTED BY A MOTION TO STRIKE.

"SECTION 1. Be it enacted by the Legislature of the State of Mississippi that Section 536, Mississippi Code 1930, be amended to read as follows:

"Section 536. Notice of special matter under general issue. If the defendant desire to prove under the general issue in an action any affirmative matter in avoidance, which by law may be proved under such plea, he shall give notice thereof in writing, annexed to or filed with the plea, otherwise such matter shall not be allowed to be proved at the trial; and the defendant may, in all cases, plead the general issue and give written notice therewith of any special matter which he intends to give in evidence in bar of the action, and which he would be otherwise obliged to plead specially; and, when such notice shall be given by the defendant, the plaintiff shall, before the trial of the cause, file a written notice to the defendant of any special matter which he intends to give in evidence in denial or avoidance of such special matter so given notice of by the defendant, and to which it would have been necessary to reply specially had the defendant's defense been specially pleaded; and if notice be not given as required, evidence of such matters shall not be admissible on the trial.

"The legal sufficiency or materiality of such special matter may be tested by a motion to strike."*

Under the decision of the Supreme Court in *McInnis Lumber Co. v. Rather,* 111 Miss. 55, 71 So. 264, there is doubt whether a motion to strike a special notice under a plea of the general issue could be sustained, if directed to the notice in its entirety. There should be some provision for allowing the plaintiff to attack before trial the legal sufficiency of matter given as notice under the general issue. Such procedure, to be used by the plaintiff only, would not tend to delay trial and might save unnecessary trial.*

Section 3.

There has been much dissatisfaction expressed among the Bar of the State regarding the difficulties of maintaining actions against non-resi-

*Editor's Note: This provision was slightly amended by action of the Senior Bar. See *supra* page 573.

dent motorists, non-resident contractors, and others, on whom personal service cannot be obtained in the county where the cause of action occurred or accrued, or otherwise than by substituted service of process. The Legislature now in session has passed Senate Bill No. 171, which was approved by the Governor and which was discussed by the committee. The bill is unsatisfactory to a certain extent, because it deals with the subject of venue of action in a piece-meal fashion, applies only to actions against non-residents for the recovery of damages, and might be contrary to the Federal Constitution as denying a non-resident the equal protection of the laws by creating a special act relating to venue of actions against non-residents which does not apply equally to residents. The suggestion was made that it would be satisfactory, and doubtless competent, to provide for venue of all actions in the county in which the cause of action occurred or accrued, saving only to the citizen householder the right to have the action transferred to the county of his residence, which act would apply to all residents except the class of householders, and this would no doubt save the bill. Venue of actions against foreign corporations was held by the Supreme Court to be the same as venue of actions against domestic corporations, under construction of Section 4140 of Mississippi Code 1930 (see *Sanford v. Dixie Construction Co.*, 157 Miss. 626, 128 So. 887), and the venue statutes should cover foreign as well as domestic corporations. It is recommended that Section 495 Mississippi Code 1930 be amended to read as follows:

"An Act To Amend Section 495 Mississippi Code 1930 So That Venue of Actions May Be Laid In The County Where The Cause Of Action Occurs Or Accrues, And As Already Provided By Law.

"Section 1. Be it enacted by the Legislature of the State of Mississippi, That Section 495 Mississippi Code, 1930, be amended to read as follows:

"Section 495. Venue Of Actions, What County Generally—Actions Against Public Officer To Be Brought In County Of His Residence. Civil actions of which the circuit court has original jurisdiction shall be commenced in the county in which the defendant or any one of them may be found, *or in the county where the cause of action may occur or accrue except where otherwise provided,* and if the defendant is a corporation, in the county in which said corporation is domiciled or maintains its principal office in the State of Mississippi or its agent for service of process, or in the county where the cause of action may occur or accrue except where otherwise provided, and except actions of trespass on land, ejectment, and actions for the statutory penalty for cutting and boxing trees and firing woods and actions for the actual value of trees cut, which shall be brought in the county where the land or some part thereof, is situated; but if the land be in two or more counties, and the defendant resides in either of them, the action shall be brought in the county of his residence, and in such cases, process may be issued against the defendant to any other county. If a citizen resident in this state shall be sued in any action, not local, out of the county of his household

and residence, or if a public officer be sued in any such action, out of the county of his household and residence, although a surety or sureties, or some of the sureties, on his bond, or other joint defendant, sued with him, be found or be subject to action in such county, the venue shall be changed, on his application, before the jury is impaneled, to the county of his household and residence."

It is also recommended that Section 363, Mississippi Code, 1930, dealing with venue of action in chancery court, should be amended to read as follows:

"An Act To Amend Section 363, Mississippi Code, 1930, In Order To Provide That Actions Might Be Brought In The County Where The Cause Of Action Occurred Or Accrued.

"Section 1. Be it enacted by the Legislature of the State of Mississippi, that Section 363 of the Mississippi Code of 1930 be amended to read as follows:

" 'Section 363. Venue of Suits.—Suits to confirm title to real estate, and suits to cancel clouds or remove doubts therefrom shall be brought in the county where the land, or some part thereof, is situated; suits against executors, administrators, and guardians, touching the performance of their official duties, and suits for an account and settlement by them, and suits for the distribution of personalty of descedents among the heirs and distributees, and suits for the payment of legacies, shall be brought in the chancery court in which the will was admitted to probate, or letters of administration were granted, or the guardian was appointed; other suits respecting real and personal property may be brought in the chancery court of the county in which the property, or some portion thereof, may be; and all cases not otherwise provided may be brought in the chancery court of any county where the defendant or any necessary party defendant, may reside or be found; *or in the county where the cause of action occurs or accrues; provided that if a citizen resident in this state shall be sued in an action, not local, out of the county of his household and residence, or if a public officer be sued in any such action, out of the county of his household and residence, although a surety or sureties, or some of the sureties, on his bond, or other joint defendant, sued with him, be found or be subject to action in such county, the venue shall be changed, on his application, before answering or as part of his answer, to the county of his household and residence.* In all cases process may issue to any county to bring in defendants and to enforce all orders and decrees of the court.' "

Section 4.

At a regular meeting of the Code Committee of the Junior Bar Association, James A. Blalock, of Jackson, suggested that there is doubt and uncertainty as to the extent, application and effect of Code Chapter 175 on "War Veterans," and that such uncertainty should be removed by the adoption of statutes specifying and clarifying the effect of the doubtful laws. Mr. Blalock's report was adopted unanimously by the Code

Committee and then submitted to the Executive Committee of the Junior Bar Association. The Executive Committee agreed that statutes should be adopted to remove the uncertainty now existing and approved the report of the Code Committee, except with reference to the rule that should be established by one of the suggested changes (which exception is noted hereafter).

The Code Committee, and the Executive Committee, in behalf of the Junior Bar Association, suggest to the Mississippi State Bar Association that said chapter on "War Veterans" be amended and offer the following recommendation:

Chapter 175 on "War Veterans" provides (see Code Section 7336) special regulations that must be followed in handling a guardianship that is instituted in order to secure payment by the United States to the ward of any benefits or compensation. This chapter provides special rules only with reference to certain matters; and it makes no provision as to general rules of procedure. Under the usual rule of law that a general statute applies to matters not covered by a special statute on the same subject, it is generally recognized that matters not covered in the statute on War Veterans fall under the general statutes relating to Guardianships (Code Chapter 34; and by Code Section 1902, the provisions of Code Chapter 29 on Executors and Administrators are made applicable). However, uncertainty sometimes exists as to whether the general laws on Guardianship apply to guardianships under the War Veterans chapter. As an example: In the case of the usual guardianship of a person of unsound mind, it is necessary to publish notice to creditors at the beginning of the guardianship; but in case of a guardianship of a person of unsound mind under the War Veterans Act, the courts are in conflict as to whether it is necessary to publish such notice.

We, therefore, recommend the amendment of said Chapter 175 by the addition of a section reading:

"(1) All guardianships instituted or conducted under this chapter shall be subject to, and conducted in accordance with, the general laws and statutes of Mississippi on the subject of Guardianships except insofar as special and different rules are particularly provided in this chapter."

Further, where a guardianship is instituted under the provisions of the chapter on "War Veterans", there is doubt and uncertainty, as to whether the guardian appointed thereunder has jurisdiction over all property of the ward, both real and personal, from whatever source derived; or whether such guardian merely has jurisdiction over money derived from the United States government. We feel that if a guardian is appointed, he should be a guardian for all purposes, and over all types of property, since it would be useless and troublesome to compel a ward to have *two* Guardians (*i.e.* one for his Government compensation, and one for any other property that he owns).

We, therefore, recommend the amendment of said Chapter 175 by the addition of a second section reading:

"(2) A guardian appointed under the provisions of this Chapter shall have jurisdiction and control over all property of the ward, both real and personal, from whatever source it was derived."

Further confusion and doubt arises as to whether property of the ward which was not derived from the United States Government (and which is not the proceeds of government money) must be managed by the guardian in conformity with the special rules set forth in the chapter on "War Veterans". This problem concerns, not the right of the guardian to manage the property, but the manner in which it shall be managed. As an example of this phase of the problem: Copies of any proceedings relating to compensation received from the Government must be served on the Veteran's Administration; but, if the proceedings relate solely to other property which is neither Government compensation (nor the proceeds of Government compensation), then it is uncertain whether copies of those proceedings must be served on the Veterans Administration.

We, therefore, recommend that this uncertainty be removed by the amendment of said Chapter 175 by the addition of a third section reading:

"(3-A) Where a guardianship is instituted or conducted under the provisions of this Chapter, then only that part of the estate which consists of compensation paid to the ward by the United States Government and the proceeds of such compensation shall be subject to the special provisions of this chapter; and all other property of such guardianship estate shall not be subject to the special provisions of this chapter."

The foregoing recommendation 3-A involves something of a controversial matter. It is the sense of your committee that this amendment is needed, and that the question is whether the amendment should be that the provisions of Chapter 175 shall or shall not apply to that part of the estate not directly derived from the Government. It might be troublesome and impractical, if not impossible, to keep the two types of estate separated, and unless they were clearly separated, doubt and uncertainty would continue to exist. For example, if both Government and non-Government funds were used in the upkeep of property owned by the ward, does that property become subject to the provisions of the chapter or, if the upkeep of the property should be paid out of one separate fund, should it be paid out of funds derived from the Government or other funds. Therefore, your committee feels that an alternative suggestion should be submitted, and that 3-A above might be written as follows:

"(3-B) Where a guardianship is instituted or conducted under the provisions of this chapter, all property of the ward, from whatever source derived, is subject to the special provisions of this chapter and must be managed by the Guardian in accordance with the special rules herein prescribed."

Section 5.

The Legislative Drafting Committee is presenting a report recommending the creation of a Legislative Drafting Bureau for Mississippi. The recommendation to this effect is concurred in by this committee, and the members feel that we cannot too strongly recommend and work for the creation of such a legislative service.

There are many fields in which a full-time director and staff of such a bureau could render service highly profitable to the bar and to the state, such as maintaining permanent code revisions, annotations, and collating the several bills presented to the Legislature each session which conflict, thereby facilitating the work of the Legislature and reducing the contingent expense. There is little doubt such a bureau would be worth far more than its cost to the state.

Respectfully submitted,

J. M. Stevens, Jr., Chairman.

APPENDIX TO REPORT OF CODE COMMITTEE

Section 6.

Recommendation No. 6 of the committee was voted upon by mail and approved by the Executive committee immediately prior to the 1940 meeting of the Mississippi State Bar.

The committee recommends that the laws regarding divorce be revised so as to make express provision for annulment, etc., as follows:

"Marriage—Null and Void—When. All bigamous, incestuous or miscegenatious marriages are void without the necessity of a decree, but a decree of nullity may be obtained at the suit of either party.

"Annulment of Marriages. In the absence of ratification, a marriage may be annulled for any one of the following causes existing at the time of the marriage ceremony:

(a) Incurable impotency.

(b) Insanity of either or both parties. Action in behalf of an insane spouse may be brought by guardian, or in case the spouse has died before there is a reasonable time for appointment of a guardian and bringing of suit, by any relative who would have inherited had the spouse been single provided suit be brought within six months after the death.

(c) Non-age (less than 17 years for the male and less than 15 years for the female) of the party bringing suit. Suit must be brought under this section within one year after the date of said marriage.

(d) Failure to comply with the five-day period of delay as required by Section 2363, Code of 1930. Suit for this cause may be brought at any time within six months after the marriage, but not thereafter.

(e) Fraud or duress imposed upon the party bringing suit.

(f) Pregnancy of the wife by another person.

(g) Lack of contractural consent due to mistake, drunkenness or other similar cause.

"Causes For Divorce. Divorce from the bonds of matrimony may be decreed to the injured party for any of the following causes:

(a) Adultery.

(b) Being sentenced to any penitentiary and not pardoned before being sent there.

(c) Wilful, continued and obstinate desertion for the space of one year.

(d) Habitual drunkenness.

(e) Habitual and excessive use of opium, morphine, or other like drug.

(f) Habitual cruel and inhuman treatment.

(g) Incurable insanity. But do divorce shall be granted upon this ground unless the insane party shall have been under regular treatment for insanity and causes thereof preceding the commencement of the action. No divorce shall be granted because of insanity until a thorough examination of such insane person by three physicians who are recognized authorities on mental diseases, one of which physicians shall be a superintendent of a state hospital for the insane, and the other two physicians to be appointed by the court before whom the action is pending, all of whom shall agree that such insane person is incurable; provided further, that in granting a divorce on this ground, notice of the pendency of the action shall be served in such manner as the court may direct, upon the nearest blood relative and guardian of such insane person, and the superintendent of the institution in which he is confined. Such relative or guardian and superintendent of the institution shall be entitled to appear and be heard upon any and all issues. The status of the parties as to the support and maintenance of the insane person shall not be altered in any way by the granting of the divorce.

However, a decree of divorce on the ground of incurable insanity shall not abridge or effect the right of the insane person to inherit, and before any such decree is granted, the complainant shall enter into bond to be approved by the court, in such an amount as the court may think just and proper, conditioned for the care and keeping of such insane person during the remainder of his or her natural life, unless such insane person has a sufficient estate in his or her own right for such purposes.

"Legitimation of Issue. The issue of a void marriage or a marriage which has been annulled or dissolved by a decree of divorce is legitimate, whether the marriage be declared void because of a prior existing

marriage or not. The issue of a miscegenatious marriage is expressly excepted from this section.

"Annulment—Custody of Children. When an annulment shall be decreed or a marriage declared void, the chancery court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just make all orders touching the care, custody, and maintenance of the children of the marriage; and the court may, afterwards, on petition, change the decree and make from time to time such new decree as the case may require.

"Annulment—Alimony. When an annulment shall be decreed, the court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just, make all orders touching the maintenance and alimony of the wife, or any allowance to be made to her, and may, if need be, require sureties for the payment of the sum so allowed; and the court may afterwards, on petition, change the decree, and make from time to time such new decrees as the case may require.

"Hearing To Be Had In Open Court. The proceedings to obtain an annulment shall not be heard or considered nor a decree of annulment entered except in open court at a regular or special term of the court, save in cases heard in term time and taken under advisement. Any decree made or entered contrary to the provisions of this section shall be null and void. Nothing herein shall be construed as limiting the right of the Chancellor in vacation to dismiss such proceedings upon the application of the complainant or by agreement of the parties; provided, however, that the chancellor in vacation may, upon reasonable notice in urgent and necessitous cases, hear petitions for temporary alimony and temporary custody of children and make all proper orders and decrees thereon.

Section 7.

Professor John W. Wade of the University of Mississippi submitted a report dealing with the unfairness of the common law rule preventing contribution between joint tort-feasors. Professor Wade has given study to the subject and has investigated the work of the New York Law Revision Commission, which has made a detailed study of this matter for a period of four or five years, and has worked out a recommendation (see its report for 1939, page 49 and following) providing for contribution between joint tort-feasors. Your Code Committee was unable to come to an agreement on this proposal. The subject is a large one, and the adoption of a statute creating causes of action for joint tort-feasors would without doubt constitute a fruitful source of litigation, making it all the more important that a statute on the subject be fundamentally sound. We urge that this body and the committee succeeding us give study to this subject, and if it is thought that the proposed legislation is needed, that a report to this effect be made at the next annual meeting. Also that the New York model be submitted to the committee for its consideration, which model is as follows:

"An Act To Provide For Contribution Between Joint Tort-Feasors and To Provide For The Release of One Or More Joint Tort-Feasors By Contracts Or Release.

"Be it enacted by the Legislature of the State of Mississippi, as follows:

"Section 1. Release of Tort-Feasors. (1) A judgment hereafter recovered by an injured person against one or more of several persons who are jointly or severally liable for the same injury to person or property, shall not release the others.

"(2) A release hereafter given by an injured person to one of several persons who are jointly or severally liable for the same injury to person or property, shall not release the others unless the release by its terms provides that it is intended to discharge the claim against the others. A release of one shall reduce the claim against the others in the amount by which the release by its terms provides that the injured person's claim against the others shall be reduced, or in the amount of the consideration paid for the release, whichever amount is greater.

"Section 2. Contribution Among Tort-Feasors. (1) In all cases where two or more persons are jointly or severally liable for the same injury to person or property hereafter caused, there shall be a right of contribution among them. The right to enforce contribution shall not accrue until one of such persons has by payment discharged the common liability or has paid more than his pro rata share thereof. The liability of a person to make contribution shall not depend upon his having been a party to any action brought by the injured persons. A person settling with the injured person shall have no right to enforce contribution against another whose liability to the injured person is not extinguished by the settlement.

"(2) A release hereafter given by an injured person to one of several persons who are jointly or severally liable for the same injury to person or property, shall not relieve the person to whom the release is given from liability to make contribution to another of such persons unless the release is given before such other person's right to enforce contribution accrues, and unless the release expressly provides for a reduction, to the extent of the pro rata share of the person released, of the injured person's claim against all other persons liable for the same injury.

"(3) Nothing herein contained shall impair the right of indemnity under existing law."

Conclusion:

Your committee respectfully recommends its continuation, under new appointments, and respectfully submits this, its report.

J. M. Stevens, Jr.
Dugas Shands
Leonard Nelson
James A. Blalock
O. B. Triplett, Jr.
N. W. Overstreet, Jr.
Frank E. Everett, Jr.
Everett E. Cook

Webb M. Mize	Robert E. Terry
Leslie Darden	Gerald J. Montgomery
Earl T. Thomas	Matthew Harper, Jr.
Schuyler Poitevent, Jr.	James P. Biedenharn

On motion of Mr. C. L. McEachern, discussion of Section One of the report, which described the work of the committee for the preceeding year and explained the action of the legislature in regard to those recommendations, was omitted; and this section was adopted as written, with the understanding that the recommendations included in it should be presented again to the legislature when it convenes.

Mr. Stevens then presented Section Two of the report, containing the first new recommendations of the Code Committee. On motion of Mr. Stevens this section was adopted. [See *supra* page 573 for discussion in Senior Bar.]

Section Three of the report was then presented. [See *supra* page 573.] Mr. Stevens' remarks in regard to this section follow.

MR. STEVENS: At the last meeting of the Bar there was a proposal to amend the statute providing for service of process on non-resident motorists so as to provide that those actions might be brought in the county where the accident occurred—that is a piece of legislation that is needed. There was a bill passed, Senate Bill 171—I do not know how many of you are familiar with it—which provides that actions for recovery of damages against non-residents may be brought in the county in which the cause of action occurs or accrues. It is the considered opinion of the chairman and of the committee that there is going to be a great deal of hard-fought litigation on that proposition; whether you can fix venue against a non-resident different from the venue of actions against a resident presents a very delicate constitutional question. It cannot be done as between domestic and foreign corporations, and whether it can be done as between non-residents and resident citizens is questionable.

In order to forego that and meet that possible objection the recommendation of the committee is that Section 495 of the Code dealing with venue of actions generally be amended so as to add this language: "or in the county where the cause of action may occur or accrue except where otherwise provided", leaving in the section the provision regarding the right of a citizen householder to be tried in the county of his residence and leaving in the section the right of a public officer to have his cause of action tried in the county of his residence. In other words, the rule as to corporations would prevail generally, and causes of action generally might be instituted where the action accrued or occurred except for the statutory exception concerning actions against a citizen resident or householder or a public officer.

We have also included a proposal that Section 363, Code 1930, be amended to add the following: "or in the county where the cause of ac-

tion occurs or accrues; provided, that if a citizen resident in this state shall be sued in an action, not local, out of the county of his household and residence, or if a public officer be sued in any such action, out of the county of his household and residence, although a surety or sureties, or some of the sureties, on his bond, or other joint defendant, sued with him, be found or be subject to action in such county, the venue shall be changed, on his application, before answering or as part of his answer, to the county of his household and residence."

That makes the two venue sections compatible, and in our opinion, accomplishes the purpose which has been sought for some time, and you get the non-resident in court, where process is served on the Secretary of State in Hinds County and the accident occurred in another county. We believe the proposed amendment would not be subject to attack. It is a piece of legislation which is needed.

On motion of Mr. Stevens this section was adopted.

Section Four of the report was then presented. [See *supra* page 573.] The first two recommendations in this section, being non-controversial, were adopted without discussion. The detailed discussion concerning the third recommendation follows.

MR. STEVENS: Sub-paragraph 3 of Section 4 recommends: "Where a guardianship is instituted or conducted under the provisions of this chapter, then only that part of the estate which consists of compensation paid to the ward by the United States Government and the proceeds of such compensation shall be subject to the special provisions of this chapter; and all other property of such guardianship estate shall not be subject to the special provisions of this chapter."

I move the approval of that, but I also desire to invite discussion on sub-section 3-B, providing the converse, and I would like to ask Mr. Blalock to make an explanation to you with your permission.

MR. BLALOCK: If you will look at that second provision which you accepted, it says that when a guardian is appointed under this act, he has jurisdiction over all property of the ward. Let's take a typical guardianship under this chapter. The ward first gets his compensation from the government or there would not be any guardianship under this act. In a great many cases he has some other property—maybe a farm, a small house in town, or some other non-government property—that produces income. In such case the guardian gets income from the government and income from non-government property—the farm out in the country, for instance. With respect to management of income from the government, the guardian has to comply with the provisions of this chapter and serve notice on the Bureau. But with respect to the other property, even the Veterans' Administration is not certain just what that guardian is supposed to do. They would like to have you serve copy of proceedings on them, but if you don't, they are not certain whether they can insist on it or not. The confusion should be cleared up, and the prob-

lem is how to straighten it out. There is no question about the necessity for clarification.

If you adopt proposal 3-A—the one that the executive committee approves—take the case of ward and guardian. This guardian gets compensation from the government; that is plainly government money, and he has to comply with the provisions of the chapter on that. But if the ward has a farm that was owned by him before he began to receive compensation, and the house on that farm needs a roof. The guardian takes some of that government money and buys a roof for this house on the farm. Before he did that, under this proposed provision 3-A, that farm was separate property and he did not have to comply with the chapter on War Veterans. Now you have a non-government farm with a government roof on top of the house. What in the world is a guardian going to do? He can't continue to treat the farm and farmhouse as non-government property, because government money is now invested there. He can't very well keep a separate account for that government roof—and so he wouldn't know what to do.

You might say there is no excuse for his spending government money to keep up that non-government farm. Suppose then you have an unusual case—a farm making money. Suppose the guardian even has one account for the government compensation money and has a separate account for the farm money. If he does that and something goes wrong on the farm, how is he going to decide which account to take it out of? The guardian would be no more entitled to take the repair money out of the farm account than he would out of the government compensation money account.

And, after all, even if that problem could be worked out, if the rules as to government money and non-government money are different, a guardian will have to keep a separate account of each type of funds—two sets of complete accounts. That would double his work and seem rather foolish.

If you adopt Section 3-A you are going to get rid of the doubt that now exists, but you are going to get another doubt, another situation that is going to be even more complex. If the guardian is to have control over all the property, it would be much simpler and better to let him handle it all the same way. That is what proposal 3-B is designed to do.

If you think that the requirements of this chapter, with which you would have to comply under proposal 3-B, are going to be troublesome to the guardian, I assure you they will not be. I have handled some cases under this chapter and find compliance with its provisions to be quite easy.

I think it would be better for us to adopt 3-B on this point.

MR. EATON: If you have a veteran with a moderate income from government sources and a substantial income from non-government source, this raises the question whether the Veterans' Bureau can manage the non-government estate, does it not?

MR. BLALOCK: A veteran often has a small private income or some small private property, but almost never does he have a large amount of private property. And, in all guardianships, the guardian, not the Veterans' Administration, manages the property.

MR. EATON: They would have the right to approve or disapprove?

MR. BLALOCK: The power is not present in the Veterans' Administration to run the veteran's estate except as to government income. Even that estate is under the sole management, care, and control of the guardian, who is charged with all responsibility about it. The Veterans' Administration cannot do anything, even with that government money—the only thing that the Veterans' Administration can do is to approve or disapprove the action of the guardian. If it approves there is no trouble; if it disapproves the action of the guardian, then that is presented to the chancellor, and he passes on what the guardian has done, which he must do in any guardianship. The Veterans' Administration disapproval has no final effect whatsoever. The only status of the Veterans' Administration is that of amicus curiae, to help advise the court as to what is going on in the guardianship.

MR. EATON: For non-government property?

MR. BLALOCK: It also advises as to that, too.

MR. EATON: The adoption of Section 3-B would make the Veterans' Administration a party to every transaction involving a guardianship, whether of government funds or funds coming from private sources.

MR. BLALOCK: That's not quite right. The Veterans' Administration would simply have a right to know what was happening and a right to express an opinion about it.

MR. EATON: If they have the right to approve or disapprove, they are a party to the action.

MR. BLALOCK: They don't have a right to approve or disapprove. Their disapproval has nothing to do with the legality of the guardian's acts; that is determined by the chancellor and by him alone.

MR. EATON: 3-B would give the Veterans' Administration a substantial say-so in the administration of non-government estates.

MR. BLALOCK: Yes, and I do not think it would be unwise to do so.

MR. SATTERFIELD: It seems to me that the inconvenience related by Mr. Blalock might not arise in very many instances, for the reason that if a part of the government funds were used on non-government property, thereafter such private property might be put under the control of the provisions of the chapter. If a veteran has an estate consisting of one-tenth of government funds and nine-tenths of private source, if he elects to use some of that money on non-government prop-

erty, he thereby elects to bring the property within the provisions of the chapter. If he did not elect to bring the non-government property within the provisions of the chapter, there would be no conflict; it is as broad one way as it is the other.

Frankly, I believe that this section which has been recommended by the executive committee and chairman—3-A—should be adopted. Where money is paid by the government, it should have supervision thereof.

MR. EATON: If Section 3-B were adopted and a man had an estate one-tenth private and nine-tenths government funds, the government would manage or control ten-tenths.

MR. SATTERFIELD: Technically they would not, but as a matter of fact they would.

The experience that I have had is that the government acts very nicely, they are very courteous in many ways, but they have their own ideas. These ideas may be contrary to the ideas of the attorney or guardian and ideas of other persons interested, and ideas of the chancellor, but their idea is to have uniformity of action, and not the idea of the lawyer, nor the attorney nor guardian, or other persons. I think that is entirely proper as to the government funds whether it is one-tenth or one-half or nine-tenths of the property.

Following this discussion Division 3-A of this section as recommended by the committee was adopted. Mr. Stevens then presented the first recommendation in the appendix to the report. The members of the Junior Bar Section, not having had an opportunity to study this recommendation, action on it was deferred to the next meeting of the Junior Bar Section. A motion by Mr. Stevens that the recommendation be incorporated in the report of the next Code Committee was adopted.

Mr. Stevens then discussed the second recommendation in the appendix to the report, and moved that the problem of drafting legislation providing for contribution between joint tort-feasors be referred to the next committee for consideration. The motion was passed.

Mr. Green moved "that among the problems for study next year a study of the propriety of adoption of a uniform declaratory judgment act in this state be integrated in the program next year." The motion carried.

The Chair called attention to several distinguished members of the Senior Bar who were visitors, and the meeting was adjourned.

WEDNESDAY, JUNE 26, 8 P.M.

Chairman Charles A. Sisson called the meeting to order and presented the speaker of the evening, Mr. Walter P. Armstrong of Memphis, Tennessee.

THE YOUNG LAWYER FACES THE FUTURE

WALTER P. ARMSTRONG

It is a singular pleasure for me to have the privilege of speaking to the Junior Section of the Mississippi State Bar Association. The combination of Mississippi and Junior Section has a strong appeal for me. Like most native Mississippians, I have never lost my interest in or love for the state.

My people came to Mississippi just as the Indians left. My father still makes his home in the house in which L. Q. C. Lamar lived when he practiced law at Coffeeville. One of my wife's ancestors was the last chancellor of the University before the Civil War. These are ties that will always bind.

I have an abiding concern for young lawyers. For many years we have usually had a half dozen in our office. Many more have come to us, stayed until they have gained what experience we could offer them, and then gone forth to more fruitful fields.

From time to time they return to seek advice or to report their successes or failures. Thus have I watched with keen interest the current of their lives as it has flowed onward.

From these young men I have gained much more than I have given them. One of the pleasantest recollections of the last quarter of a century is those morning hours when we have sat together around the conference table. Their keen young minds and fresh outlook have contributed greatly to the solution of a multitude of perplexing problems.

Incidentally my interest in young lawyers is not lessened by the coincidence that tomorrow my son will take his first bar exams.

These facts have caused me to give some thought to the subject on which I venture to address you.

My interest has not been limited to young lawyers as individuals, but has extended to their group movements. It was my good fortune to be a member of the subcommittee of the Executive Committee of the American Bar Association which recommended the creation of the Junior Conference. That I have said, and I repeat, was the best day's work I ever did for the American Bar Association. The growth of that Conference I have watched until today when it has become the most potential factor for development that the American Bar Association possesses.

So it is I come to you merely as an elder soldier, not a better one.

I do not wish to sail under false colors. I come with none of the prestige of judicial office, for I have never held one. I come not as a jurisprudent whose words have academic sanction. No law school catalog carries my name as professor. Like most of you, I am merely a practicing lawyer, taking a day off now and then

> "When the hurly burly's done,
> When the battle's lost or won."

The dust of the forum still clings to my garments. If what I say tonight is heard without articulate contradiction I feel reasonably certain that such will not be the case when I re-enter the court room.

Perhaps there is some advantage in this. Your life is my life, your thoughts my thoughts, your language my language.

"The stranger within my gate
He may be true or kind,
But he does not talk my talk—
I cannot feel his mind.
I see the face and the eyes and the mouth
But not the soul behind."

"The men of my own stock,
They may do ill or well,
But they tell the lies I am wonted to,
They are used to the lies I tell,
And we do not need interpreters
When we go to buy and sell.

"The men of my own stock,
Bitter bad they may be,
But, at least, they hear the things I hear,
And see the things I see,
And whatever I think of them and their lives
They think of the likes of me."

I began the study of law more than a third of a century ago. It was a simple and naive world we entered compared with the one you face today. The mistakes of Reconstruction had been liquidated. The Spanish-American War had all but eliminated the last vestiges of sectionalism and had launched the United States as a world power. The South was about to regain her proper place at the council table of the nation.

Though it did not seem so to us at that time, the problems then confronting the lawyer were comparatively quite simple. The great cases that had arisen under the Reconstruction Acts had all been decided. The new constitutions of the southern states had been approved. The legislation enacted pursuant to them had not been attacked. The nation seemed content to allow the South to deal with its peculiar problems in its own way so long as that way was not palpably unconstitutional.

The multitude of technical questions that now perplex us was nonexistent. There was no income tax. Taxes on land were for practical purposes the only ones known. When I first came to the bar I was associated with two lawyers whose practice was largely in Mississippi—Judge Julian C. Wilson and St. John Waddell. So far as I can recall, the only tax cases they ever had involved the validity of the sale of lands for taxes, particularly levee taxes.

The only Federal statutes that aroused public interest were the

Bankruptcy Act and the Sherman Anti-Trust Act, and the latter seemed far remote from our ordinary life.

Statutes passed by the Congress and state legislatures were not only few and simple, but were enforced by the courts and not by administrative tribunals.

The only administrative tribunal that we knew was the Interstate Commerce Commission and that was a foreign field, penetrated only by "railroad lawyers". Only a slight number of cases reached the Federal courts. The railroad removed a few on the ground of diversity of citizenship. Occasionally in a damage suit an effort was made to invoke the peonage laws. Violations of the revenue and postal laws were almost the only crimes prosecuted in the Federal courts.

The only specialists we heard of in the profession were those who appeared before the Interstate Commerce Commission and the patent lawyers.

In those days we had eaten only of the fruit of indolence and had passed by the tree of knowledge and had not been driven from Eden.

What a contrast is the present. What a greater contrast the prospect of the future presents. Not only do we have an income tax with its unpredictable ramifications, but Congress and the state legislatures have sought to tap every conceivable source of taxation. The result is such a complexity of tax problems that if a firm of lawyers desires to handle them within the office, they must associate with them a tax expert. Otherwise they must frequently call in a specialist.

Statute making, both by Congress and the state legislatures, goes on apace. Not only do these statutes deal with taxation, but with practically every phase of business life—corporate reorganizations, labor, social security, trade practices, the issue of securities, the filing of multitudinous reports and many other subjects.

No business man can afford to make any major decision or embark in any minor undertaking without first consulting a lawyer.

Many of these statutes are crudely drawn, vaguely phrased, and provide for their own administration.

So true is this that the great problem now confronting the lawyer is not to develop the common law, but to construe and apply these statutes and fit the common law into their interstices.

The result has been a myriad of administrative tribunals. The Interstate Commerce Commission is now the progenitor of numerous progeny.

Sir Arthur Quiller Couch once remarked that no man was really educated unless he had a consciousness that Greek and Latin once existed. So today no lawyer is fully equipped, unless he has a thorough consciousness of the existence of these administrative tribunals. So true is this

that I have advised my son, before he begins his practice, to spend some time in a Washington law office that he may acquire at least an awareness of this situation.

This, however, can be only a beginning. It would require the courage and ingenuity of a Theseus and the aid of an Ariadne to string a thread that would lead through this labyrinth. Perhaps the Logan-Walter bill will give some help.

Inevitably this change in the law has resulted in a corresponding change in the lawyers. Specialization rapidly increases. The patent lawyer remains. The field of Interstate Commerce is becoming greatly subdivided. Recently it came to my attention that a truck line operating out of Memphis had deemed it necessary to retain on a full-time basis a specialist formerly with the Interstate Commerce Commission. There are specialists in the public utility field, specialists in taxation, specialists in corporate reorganization, specialists in the issuing and marketing of securities, specialists in labor problems. The last is a rapidly widening field. Recently a young man who has finished his first two years at Duke University Law School asked for a place in our office for the summer—to gain practical experience, as he put it. He had specialized in labor law. We welcomed him. He came in last week. We have little to give, but he has much to teach me and my associates.

I have not enumerated, I have merely mentioned some of these specialists. I have even omitted those who confine themselves to practice before such important courts and bureaus as the Federal Employees Compensation Commission, the Bituminous Coal Commission, the Federal Communications Commission, the Civil Aeronautics Authority, the Court of Custom Appeals, the Court of Claims. I have not even mentioned the high specialization of the government lawyers. If you would take a week off and thoroughly explore that magnificent building on Pennsylvania Avenue that houses the Department of Justice, you would be amazed at what you found. You would discover many *terrae incognitae* of the law, some continental in size.

If you will examine the docket of any United States District Court, you will visualize the result—the immense increase in amount and variety of litigation in the Federal courts—much of which involves prosecution for the violation of Federal criminal statutes to which I have not even alluded.

As I have recited these things—said an undisputed thing in such a solemn way—no doubt you have wondered how it all concerns you and what you can do about it. In my judgment it concerns you greatly and there is much you can do about it. Indeed, you are admirably and almost uniquely, equipped for the task that confronts the lawyer, especially the young lawyer of the future.

That task is to participate in the development of the common law, to guide statutory changes and enlargements, and to better the administration of the law whether by courts or administrative tribunals.

I have said that you are admirably and almost uniquely equipped for this task. This was no idle compliment, but my considered judgment.

I should be the last to claim that the common law is sacrosanct or should be immutable.

I do venture to suggest that those who seek to change the common law or supplement it by statutes should know its content and be immersed in its tradition. That experience you have. You were educated in it. Its great cases are landmarks along your pathway.

May I pause here to say something I believe needs to be said? We hear much about Harvard having originated the "case system". I give you the truth as put by the latest biographer of L. Q. C. Lamar: "In 1867, three years before Christopher Langdell had entered upon his career as Dana Professor of Law at Harvard, Lamar had introduced and established a method of teaching from adjudicated cases that was in essence the very same as the Case System, developed by Langdell and today used in every recognized law school in the nation."[1] This was at the University of Mississippi.

Your equipment goes far beyond your education—whether obtained in Mississippi, or elsewhere. Frequently education is but a thin veneer placed by a few short years upon the background, intelligence, and character of a man.

You have far more than that. Your Supreme Court has inflexibly adhered to the principles of the common law. Your fathers and your fathers' fathers—whether laymen or lawyers—spoke its language. Your mother's sense of justice—which she in turn inherited from her mother —was based on the common law. Your ancestors and theirs lived by the common law in Kent and Yorkshire and Surrey.

Speaking of religion, some one has said that if he were given the instruction of a youth until he was fourteen he would not care to whom his education was thereafter entrusted. Another has said that one's education should begin with one's grandfather. There is a modicum of truth in this kind of folklore.

To one who has begun to learn of the common law after he has come to understand different inherited traditions and after his concepts have begun to harden it is a theory whose value is to be assessed along with that of other theories. But to one who comes from a race that from time immemorial has lived by it and who has inherited it, is a fact not to be lightly discarded.

For these reasons I say that you are admirably, if not uniquely, equipped for the future. This I say because from the lawyer's point of view the future poses the question: How far and in what way shall we depart from the common law?

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1. Wirt Armistead Cate, *Lucius Q. C. Lamar*, p. 123.

Mark Twain it was, I believe, who said that it was nobler to tell others how to be good than to be good oneself, and also easier. From here out I shall follow the nobler—and easier—course. In making these suggestions I shall seek to be eminently practical.

My first suggestion is that you perfect yourself in the knowledge of the common law. Means to this end are not lacking. Formerly it seemed sufficient to read the current decisions of the state court of last resort, of the Circuit Court of Appeals of the Circuit, and of the Supreme Court of the United States. Such is not the case at present. The opinions of the state Supreme Court are not sufficiently inclusive. The decisions of the Circuit Court of Appeals, since *Erie Railroad Co. v. Tompkins,* are merely a pale reflection of the state courts. The Supreme Court of the United States, as Mr. Justice Roberts recently pointed out, is no longer a common law court.

The best source is the work of the American Law Institute. Indeed, there is nothing that rivals it in accuracy of statement. This is the final result of the fusion of the ideas of law school teachers, practicing lawyers, and judges. One of the most valuable members of the American Law Institute and of its Council, which is its governing body, is Chief Justice Sydney Smith. He has contributed as much as any single individual to the restatement of the common law. No one who is conversant with the common law can afford to be ignorant of the work of the American Law Institute.

I commend for your consideration also the law institutes that are now so frequently held throughout the country. Indeed, I hope that the time will come when many states will have law institutes devoted to the study of the law of the particular state—similar to that recently incorporated in Louisiana.

Another source you should not neglect is the law journals. You will find many stimulating and informative articles in them discussing subjects with which the courts have not yet been called upon to deal. Today no important case should be briefed without consulting the Index to Legal Periodicals.

A subject which you will find the jurisprudents who write for the law reviews frequently discussing is "the judicial function"—the way the judge does or should go about deciding a case. Novel suggestions are made, so many that there has come into use a phrase to describe them—"the newer jurisprudence". Whether or not you agree with these suggestions, you cannot afford to ignore them if you would keep in touch with the development of the common law.

Why am I so insistent upon your keeping in touch with the current developments of the common law? It is because it is the basis for our conception of justice and for our constitutions and is the starting point for our statutes. It regulates all the rights of man except those that are controlled by the constitution or statutes. Constitutions in many of their provisions select from it those principles which become so valued as

to be deemed worthy of greater sanctions. Statutes interpret it, supplement it, or change it. Both constitutions and statutes are drafted and interpreted in the light of its history. No one who does not know that history and its present day development is competent to draft, interpret or administer a constitution or a statute.

That a lawyer should so continue his adult education has always been recognized. Perhaps in this country, at least, it has never been so important as today when many new theories are being embodied in statutes hastily and crudely drawn by those who do not have the proper common law background.

Next I would have you familiar with the best drafted current statutes. As models I know of none better than those produced by the Commissioners on Uniform State Laws and the American Law Institute, which has already put out a model code of criminal procedure and is now, with the aid of Dean Wigmore and Professor Morgan of Harvard, working on a model code of evidence.

Again I would have you familiarize yourself with statutes—federal and state—not only of your own state, but of other states—that embody advanced social ideologies—particularly those that provide for a bureau or board for their administration. This I would have you do—if for no other purpose—that you may gain first hand knowledge of how vaguely and inexpertly many of them are drawn.

I may seem to have set for you another labor of Hercules. In reality it is not an impossible task. Once the spade work is done the follow-up is less difficult.

I promise you that if you will do this work you will be properly equipped, not only for the practice of your profession, but for the social service every lawyer should in some measure render.

May I add that in actual practice and for utilitarian reasons first rate equipment was never so essential as at present. Formerly a lawyer was accountable only to his client. Frequently lay clients were unable to detect mistakes. Increasingly today business is forwarded by other lawyers who have a general retainer from the client. They are keen observers and unsparing critics of the work of the local lawyer. The quickness of modern transportation gives them a wide choice of selection. When the way business is handled does not meet their approval the next item is likely to go elsewhere.

It is not my thought to limit my emphasis to your equipment for private practice. Rather have I in mind the lawyer's opportunity to render public service in private station. Here personal capacity, no matter how splendid, is not sufficient. Alone, or in conjunction with but a few, the effort is frequently a forlorn hope. Concerted action in bar associations is much more effective. I illustrate: The American Bar Association rendered great service in connection with the new Federal Rules of Civil Procedure. Its efforts to deal with the intricate and perplexing problem

of administrative tribunals resulted in the Logan-Walter bill. Its Committee on Jurisprudence and Law Reform, of which I have for some years been chairman, finds the House and Senate Judiciary Committees sympathetic with its efforts.

I know that it has been said in the past that legislative bodies pay little attention to the action of the bar associations. Frequently that statement has been true. But for this situation the bar associations were themselves largely responsible. Sometimes they took strong positions upon subjects that were essentially political. Often they adopted an intransigent attitude. Frequently they had given no real study to the subject, but had merely adopted by viva voce vote at their annual meeting a resolution which had received no real consideration. This the legislators knew and this they took into account. Their attitude would have been quite different had it been possible to make them realize that they were really dealing with the informed opinion of the bar.

What I have suggested to you is really quite simple. You should keep abreast with current developments of the common law by maintaining contact with the work of the American Law Institute and other law institutes and by becoming acquainted with current legal literature. You should examine major statutes, both those well and poorly drafted. You should participate in the cooperative work being done by lawyers through local, state, and the American Bar Associations.

If you will do these things you will equip yourself for participation in the rendering of a signal public service. Not only in court, but in conversation, addresses, and writings you should help guide the development of the common law—a task that today is too largely left to the theoretical jurisprudents of the law schools, unaided by the practical judgment of the practicing lawyer.

You can take a great part in the formulation and improvement of statutes that are embodying and will continue to embody modern social concepts. Too often lawyers and sometimes judges ignore statutes. It is not unheard of for cases to be argued and decided in entire disregard of a statute which may have been in force for several years.

In referring to modern social concepts embodied in statutes, I am not suggesting your participation in public life. That is another story. I am not concerned with whether you agree or disagree with their objectives. That is a question for your individual consciences. But whether we agree or disagree with their objectives, we can all agree that they should be phrased in clear, unambiguous language so that they may be capably administered and so that they will not leave those enforcing them in a position really to legislate. That is the lawyer's job. It is a job that the lawmakers frequently are not capable of performing or which they do not have or do not take time to perform. In its performance they will welcome the lawyer's assistance.

The Mississippi Constitution of 1890 is a great document. It is unique, not because of its objectives. Those objectives were commonly

favored in the South of that day. Its merit lay in the way it achieved those objectives. It was a lawyerlike job done by great lawyers, under the leadership of two of the greatest, Wiley P. Harris and J. Z. George.

It is in this field that in my judgment the greatest opportunity of the bar for public service today will be found.

Another outlet for similar service is the reform of judicial procedure. Dissatisfaction with the law is not based upon criticism of the substantive law as it deals with the ordinary rights of man. That has broadened down from precedent to precedent in a fairly satisfactory manner. The criticism is directed at delays and the pitfalls of procedure. Much can be done and is being done by the bar to eliminate this criticism. Many states are studying as their models the Federal Rules of Civil Procedure.

These are tasks which might well whet the ambition of any lawyer. Moreover, they give an opportunity for rendering public service and responding to the compulsion of noblesse oblige without in any wise interfering with private practice.

For these tasks you are admirably equipped. Some of your equipment I have mentioned—education, your great common law court, your heritage of the Anglo Saxon tradition. To these I should add two others—your youth and the nature of your practice.

Always youth is an irreplaceable asset. That is a commonplace. But my observation over many years convinces me that the young lawyers are the ones who today are doing the worth while altruistic work at the bar. I could file a bill of particulars. However, I shall only illustrate by saying that this year we are fortunate enough to have on the Committee of Jurisprudence and Law Reform two members from the Junior Conference. They have done more and better work than any committee members since I have been chairman.

The nature of your practice. Mississippi has no great cities where the law is highly specialized. The variety of your practice and the closeness of your touch with your clients give you great advantages.

Do not neglect your opportunity. Keep pace with the development of the common law. Help direct its course. See that statutes are clearly phrased and suited to the objectives they seek to accomplish, that they are properly related to the common law which they seek to supplement. Make the voice of the bar articulate through the bar associations.

I envisage the lawyer of the future—the lawyer who is in full practice and has not left the law for public life or some other vocation.

He has not been content with a formal education in the common law. He is keenly interested in its constant growth and keeps closely in touch with it. He exposes himself to the currents of thought that are stirring in the law journals and other contemporary literature of the law.

He is aware of the problems involved in the drafting and interpreta-

tion of statutes. He is alive to the importance of procedural and administrative questions.

He is fully equipped for the practice of his profession. This does not mean that he is familiar with all the authorities that are found in specialized branches of the law. It does mean that he is acquainted with the trends of contemporary legal thought. It means that he understands the operation of the judicial function as it exists today. It means that he knows how to find applicable authorities which his court is likely to follow—not neglecting the Restatement of the Common Law or the writings of jurists—and knows how to fit these authorities into the pattern of the jurisprudence already stamped out by his own court.

With this equipment and this facility he is superior to any specialist with whom he may become associated. The specialist has concentrated on one subject in many jurisdictions. The lawyer I visualize has not only the broadening experience of many subjects in one jurisdiction, but he can judge just how far the general development of the law is likely to be effective in that jurisdiction. True this is the ideal. But in my judgment it is an attainable ideal.

In serving private clients such a lawyer would exercise only half his powers.

I have already pointed out how he can be helpful in the drafting of statutes. Far greater help that this can be rendered.

The most significant trend of our times is the tendency to regulate our rights and our lives by legislation. Ofttimes these acts merely express pious hopes without definitely expressing the will of the law makers. Some are too vague to meet the constitutional test. Others which survive to all practical purposes commit to their administrators powers that are really legislative with no adequate review by the courts. The result is that many of the boards constituted by these acts operate without any adequate public knowledge of their functioning and without being subjected to the searching scrutiny to which legislatures and courts are subjected. If these things were clearly pictured by the bar, not only would the people, but also many of the legislators who voted for the laws that make them possible, be amazed by the extent to which lives and property are controlled by the bureaucrats.

Dangerous as is this tendency, it is likely to increase, not only as a result of Congressional, but also of state legislation. The bar of Mississippi is in a position to direct its course into proper channels, at least in the state. Today such advanced legislation usually begins in the more populous eastern states and gradually spreads. As yet Mississippi has not been inundated, but it is time to build the levees.

You were late in building your system of good roads. But your very delay gave you one great advantage. You were able to profit to the greatest extent by the experience and mistakes of others. You bypassed many obstacles that would have diverted or slowed up traffic. So here.

In this connection the task I should like to see you young practicing lawyers of Mississippi assume is this:

When such legislation—whether state or national—is proposed, consider carefully whether it is consonant with the genius of your institutions. Help to see that the statutes proposed are clearly and specifically phrased. Entrust to administrative tribunals only such functions as cannot be properly and efficiently performed by the courts. Provide for court review of these tribunals so far as is practicable. When the plea of speed and efficiency is advanced in favor of these boards, see whether that plea cannot be met by making the courts more efficient by procedural reform. Above all use your best endeavors to see that small boards are not created which have the power to function as miniature legislatures with a finality of action unrestrained by public watchfulness.

If such boards are created, subject them to constructive criticism and see that the public is made aware of their powers and the method of their exercise.

Discuss these things with one another in your bar associations, with the members of your legislature, with your Congressmen—in conversations, addresses, in the newspapers and in articles in legal periodicals. Whatever change may come to our institutions and to the polity of our law, let it not come through apathy or ignorance. Let the victory be won, if it is to be won, by frontal attack and not by any fifth column.

This is the great opportunity of the lawyer—especially the younger lawyer—for informed public service.

The words of a wise and famous Frenchman come to my mind:

"If youth but knew. If old age could."

The Chair then requested nominations for Chairman of the Junior Bar Section.

John C. Satterfield nominated Mr. George M. Ethridge, Jr. The nomination was seconded by Mr. Hugh Clayton. Mr. George R. Neblett moved that the nominations be closed and that Mr. Ethridge be elected by acclamation. The motion was carried.

Mr. Ethridge then expressed his appreciation to the Section.

The Chair then requested nominations for Vice-Chairman. Mr. George R. Neblett nominated Mr. J. M. Stevens, Jr., and Mr. Eugene Thompson seconded the nomination. Upon motion of Mr. Nugent Shands the nominations were closed and Mr. Stevens elected by acclamation.

At the request of the Chairman the members retired to district meetings for the election of members of the Executive Committee. The following were elected.

NORTHERN DISTRICT:	Hugh N. Clayton
	Eugene Thompson
	John W. Wade
SOUTHERN DISTRICT:	James S. Eaton
	Alfred Moore
	Billy Dan Statham
CENTRAL DISTRICT:	Edmund L. Brunini
	Stokes V. Robertson, Jr.
	George R. Neblett

The meeting was adjourned.

AUDIT OF ACCOUNTS AND FINANCE
MISSISSIPPI STATE BAR

Report upon audit of accounts and financial records for the year ended May 30, 1940, including statement of receipts and disbursements with supporting schedules

DICK D. QUIN & COMPANY

ACCOUNTANTS AND AUDITORS
JACKSON, MISSISSIPPI

June 18, 1940

Board of Commissioners,
Mississippi State Bar,
Jackson, Mississippi.

Gentlemen:

In accordance with your instructions, we have audited the accounts and financial records of the Mississippi State Bar as maintained in the office of the Secretary-Treasurer for the year ended May 30, 1940. The scope of this audit embraced the verification of all recorded receipts and disbursements during the year and the verification of the unexpended balance on hand at May 30, 1940.

The results of our audit are presented in this report, which includes: (1) text of comments and explanatory detail; (2) statement of receipts and disbursements for the year ended May 30, 1940. (3) schedules supplementing the foregoing statement. A list of the statement and supplementary schedules is presented on the sheet following page 3.

COMMENTS RESPECTING RECEIPTS AND DISBURSEMENTS

Exhibit A presents a statement of receipts and disbursements for the year ended May 30, 1940.

A summary of the receipts and disbursements for the fiscal year 1939-40 and a comparison with a like summary of receipts and disbursements for the fiscal year 1938-39 are presented in the following table:

	1939-40	1938-39	Increase Decrease–
BALANCE ON HAND, MAY 31, 1939	$1,811.59	$3,141.92	$1,330.33–
RECEIPTS:			
Dues collected	5,595.00	5,315.00	280.00
Less: Excess of checks returned over amount collected	25.00	5.00–	30.00
Net dues collected	5,570.00	5,320.00	250.00
	7,381.59	8,461.92	1,080.33–
DISBURSEMENTS:			
Secretary's salary	1,800.00	1,800.00	–
Office expense	926.68	734.48	192.20
Annual convention expense	399.84	387.62	12.22
Commissioners' expenses	667.67	842.16	174.49–
Mississippi Law Journal	2,000.00	2,255.44	255.44–

Junior Bar Section	119.20	244.52	125.32–
Committee expenses	79.37	149.50	70.13–
Miscellaneous disbursements	210.23	236.61	26.38–
Total disbursements	6,202.99	6,650.33	447.34–
BALANCE ON HAND, MAY 30, 1940	$1,178.60	$1,811.59	$ 632.99–

An analysis of the dues collected during the fiscal year ended May 30, 1940 is presented in schedule A-1. This schedule shows the amount collected for each fiscal year. All receipts issued by your Secretary-Treasurer were verified by tracing amounts reflected thereon into the depository.

All cancelled checks covering disbursements were carefully examined and were found to be properly supported by vouchers. The balance of cash on hand at May 30, 1940, amounting to $1,178.60, was verified by direct communication with your depository.

A list of all delinquent members at May 30, 1940 is presented in schedule A-2. Returned checks held for redeposit, for which receipts have been issued, are reflected in schedule A-3. Although members whose checks have been returned unpaid are delinquent, and are so shown in schedule A-2, it nevertheless was deemed advisable to include as a part of this report a list of the members issuing these bad checks.

Returned checks of Joseph H. Moss and Frances W. Watts, each in the amount of $5.00, were written off as we were advised by your Secretary-Treasurer that correspondence with these two members disclosed that neither was in active practice during the fiscal year for which his check was given.

A review of the membership roll of the Mississippi State Bar for the current year revealed the following information:

Active members paying dues	1,060
Delinquent members	207
Exempt members	50
New members, exempt for one year	163
Members not in active practice	291
Total members on roll	1,771

Entries have been made on the journal under date of May 30, 1940 to bring the financial records into conformity with the statement of receipts and disbursements forming a part of this report.

Yours very truly,

DICK D. QUIN & COMPANY,
Certified Public Accountant.

MISSISSIPPI STATE BAR

List of Statements Contained in Report Upon Audit of Accounts and Financial Records, Year Ended May 30, 1940

Exhibit A—Statement of Receipts and Disbursements, Year Ended May 30, 1940.

Schedule A-1—Analysis of Net Dues Collected, Year Ended May 30, 1940.

Schedule A-2—Schedule of Delinquent Members at May 30, 1940.

Schedule A-3—Schedule of Returned Checks Held for Redeposit at May 30, 1940.

Exhibit A

MISSISSIPPI STATE BAR

Statement of Receipts and Disbursements, Year Ended May 30, 1940

BALANCE ON HAND, MAY 31, 1939			$1,811.59
RECEIPTS:			
Dues collected—Schedule A-1		$5,595.00	
Less: Excess of checks returned over amount collected		25.00	
Net dues collected			5,570.00
			7,381.59
DISBURSEMENTS:			
Secretary's salary		1,800.00	
Office expense:			
Auditing	$ 75.00		
Bond premium	15.00		
Dues and subscriptions	13.20		
Exchange	44.56		
Extra clerical help	155.00		
Postage	260.08		
Stationery, printing, and office supplies	241.95		
Telephone and telegraph	121.89		
		926.68	
Annual convention expense		399.84	
Commissioners' expenses		667.67	
Mississippi Law Journal		2,000.00	
Junior Bar Section		119.20	
Committee expenses:			
Complaint committee	41.72		
Study committee	37.65		
		79.37	
Miscellaneous disbursements:			
Secretary's expense to A.B.A. convention	100.00		
District Bar Association meeting	58.05		
Institute luncheon expense—net cost	10.38		
Flowers for memorial service	10.20		
Cost of bookcase purchased	31.60		
		210.23	
Total disbursements			6,202.99
BALANCE ON HAND, MAY 30, 1940			$1,178.60

Schedule A-1

MISSISSIPPI STATE BAR

Analysis of Net Dues Collected, Year Ended May 30, 1940

GROSS RECEIPTS:	No. of Members	1934-35	1935-36	1936-37	1937-38	1938-39	1939-40	1940-41	Total
1934-35 dues Nos. 1107-1109	3	15.00							$ 15.00
1935-36 dues Nos. 1091-1094	4		20.00						20.00
1936-37 dues Nos. 1094-1100	7			35.00					35.00
1937-38 dues Nos. 1075-1082 (1 void)	7				35.00				35.00
1938-39 dues Nos. 1047-1081	35					175.00			175.00
1939-40 dues Nos. 19-1065	1,047						5,235.00		5,235.00
1940-41 dues Nos. 1-16	16							80.00	80.00
	1,119	$15.00	$20.00	$35.00	$35.00	$175.00	$5,235.00	$80.00	$5,595.00

NOTE: The voided receipts were as follows: 1937-38 No. 1081

Editor's note: Schedule A-2, *Schedule of Delinquent Members at May 30, 1940,* and Schedule A-3, *Schedule of Returned Checks Held for Redeposit at May 30, 1940,* are on file in the office of the Secretary of the Mississippi State Bar and may be examined by anyone so desiring.

MISSISSIPPI STATE BAR
DIRECTORY
1940
ACTIVE MEMBERS

NOTICE

TO THE MEMBERS OF THE MISSISSIPPI STATE BAR:

The records of the Mississippi State Bar are referred to daily by various state and federal governmental departments as well as individuals with regard to the status, address, etc., of members, and, therefore, it is requested that the Secretary be advised of change of address, should such be made at any time, of members of the Bar. This is very important and members are urged to comply with this request.

Alice Nevels, Secretary
Mississippi State Bar

ABERDEEN
Booth, Richard B.
Brannon, Mary Sue
Coleman, J. M.
Holmes, G. M.
Houston, D. W.
Houston, D. W., Jr.
Leftwich, Frank S.
McFarland, Ben H.
Paine, Tom F.
Sykes, John A.
Young, M. C.

ACKERMAN
Carlisle, Jack B., Jr.
Coleman, James P.
Ford, A. L.
Nason, Robert E.

AMORY
Phinnix, James A.
Prude, J. O., Jr.
Pullen, Robt. Lafoy
Shell, Dan H.
Wright, Fred P.

ASHLAND
Farese, John A.

BALDWYN
Cox, Allen
Cox, W. H.

BATESVILLE
Boyles, J. B.
Johnson, D. R.
Johnson, Joseph E.
Perkins, H. J.
Smythe, Arnold
Woodruff, Lee T.

BAY SPRINGS
Bayless, H. L., Jr.
McFarland, J. A.
McFarland, J. A., Jr.
Oates, O. M.
Whitman, Sam

BAY ST. LOUIS
Conner, Mrs. Evelyn Hunt
Conner, R. E.
Genin, R. L.
Gex, Lucien M.
Gex, W. J.
Jones, Edw. I.
Stockstill, W. W.

BELMONT
Haynes, M. Paul
Wright, C. B.

BELZONI
Bass, R. Leon
Dovith, Melvin
Jones, H. F.
Montgomery, V. B.
Mortimer, John A.
Murphy, Charles M.
Nason, R. H.
North, L. G.
Sumrall, N. W.
Wadlington, Lucian R.
Womack, W. D.

BEULAH
Dossett, W. D.

BILOXI
Bacho, Fred
Cody, F. G.
Corban, L. C.
Cousins, George B., Jr.
Doty, Lemuel H.
Elmer, F. W., Jr.
Goodman, F. C.
Grant, Leslie B.
Guice, Jacob D.
Guice, W. L.
Hengen, Louis
McDonald, Howard A.
McGee, Roy J.
Pringle, Victor B.
Schwan, Jules A.
Sekul, John
Stennis, J. D.
Tonsmeire, E. C., Jr.
Wadlington, Walter
Whetstone, J. C.
Wiltz, Thos. J., Jr.

BOONEVILLE
Cunningham, F. W.
Cunningham, J. E.
Cunningham, James A.
Cunningham, J. A., Jr.
Finch, J. S.
Franks, Donald
Jarvis, R. T.
Lacy, C. R.
Lacy, Eugene P.
Lee, Gettys
Sharpe, E. C.
Stanley, Roger
Windham, E. K.

BOYLE
Wall, Robt. Wilson

BRANDON
Bullock, H. H.
East, J. R.
McIntyre, W. E.
McLaurin, S. L.
Murray, J. C.

BROOKHAVEN
Barlow, E. C.
Brady, Thos. P.
Brady, Thos. P., Jr.
Brady, Tullius
Cassedy, J. W.
Cassidy, Wm. P.
Cohn, A. A.
James, Viola Lee
Jones, R. L.
Noble, J. F.
Phillips, Robert P.
Sauls, Edw. B., Jr.
Swalm, Sherman W.
Swalm, Terry S.
Wall, Hugh V.
Womack, Edw. L.
Yawn, J. N.

BRUCE
Byars, Wilton Vance

BUDE
Griffing, Homer B.
McGehee, W. H.

CALHOUN CITY
Evans, W. J.
Lamar, E. L.
Lawrence, W. O.
Moore, Paul M.
Patterson, Albert T.
Patterson, Joe T.
Sanderson, David

CANTON
Cain, S. Robert
Cain, Wm. Sterling
Cauthen, Nelson H.
Dean, Hermon
Dunning, F. S.
Greaves, H. B.
Herring, Geo. B.
Hood, Josephine
Huber, H. T.
McCool, D. C.
Powell, Robert H.
Powell, Robert, Jr.
Powell, Sid
Ray, Tip
Spivey, L. G.

CARROLLTON
Turner, S. E.
Yewell, T. O.

CARTHAGE
Barnett, O. H., Jr.
Barnett, Tom J.
Bennett, O. A.
Davidson, Harold W.
Ellis, W. A.
Jolly, Bill
Leach, F. E.
Sasser, J. H.
Walker, R. B.
Warwick, A. M.

CASCILLA
Whitten, J. W., Jr.

CHARLESTON
Blount, James A.
Caldwell, J. H.
Caldwell, J. H., Jr.
Cossar, George P.
Dye, Bradford
Fedric, Wm. Henry
Harris, W. R.
Kuykendall, John M.
Kuykendall, John M., Jr.
Wander, Mose
Whitten, Jamie L.

CLARKSDALE
Adams, J. J., Jr.
Alcorn, W. A., Jr.
Brewer, Dan C.
Brewer, Ed C.
Brocato, V. J.
Brooks, Rodney
Carney, K. A.
Crisler, John W.
Curtis, Chester Harris
Frazier, T. A.
Gee, W. F.
Gilliam, Alex, Jr.
Holcomb, Pascal D.
Hopkins, Jos. W.
Kirby, R. H.
Levine, Harold Lee
Longino, C. S.
Lowery, E. S.
Luckett, Semmes
Maynard, Fletcher F.
Maynard, G. F.
Maynard, G. F., Jr.
Maynard, Wm. H.
Miller, Leighton S.
Miller, W. B.
Montgomery, Fred H.
O'Neal, J. H.
Rice, Greek P.
Roberson, J. Lake
Roberson, Shed Hill
Ross, Tom T.
Sack, Lester M.
Sherman, Abe
Sisson, Charles A.
Talbot, J. M.
Venable, W. W.
Whittington, E. F.
Williams, G. E.
Yerger, E. M.

CLEVELAND
Alexander, W. B., Jr.
Caldwell, Thomas
Causey, H. F.
Craggs, C. J.
Feduccia, Joseph C.
Green, E. H.
Jackson, Robert E.
Lipscomb, L. P. B.
Pace, Courtney C.
Roberts, J. C.
Schweizer, George J.
Shands, Dugas
Simmons, W. W.
Smith, John T.
Sommerville, Robt. N.
Sparkman, A. B.
Todd, H. D.
Valentine, Carmon E.

CLINTON
McDonald, Ewell J.

COFFEEVILLE
Stone, J. P.
Stone, W. I.
Upchurch, Robt. W.

COLLINS
Corley, W. U.
Dent, E. L.
Dent, W. W.
Gandy, George
Kervin, J. D., Jr.
McIntosh, Hugh, Jr.
Merrell, G. H.

COLUMBIA
Callender, Bernard
Conner, Claude E.
Dale, R. H.
Dale, Sebe
Davis, T. B.
Goss, B. J.
Goss, Roy J.
Hall, Lee D.
Hall, Toxey
Hall, Toxey, Jr.
Hammond, Kelly J.
Hathorn, C. V.
Mounger, Henry
Rawls, H. C.
Sylverstein, B. S.

COLUMBUS
Burgin, D. A.
Frierson, John F.
Garnett, C. L.
Gaston, Chester Davis
Hartley, C. D.

Holloman, John H.
Lewis, T. W., Jr.
Loving, J. W.
Owen, F. C.
Sims, W. L.
Stovall, R. C.
Stribling, Wm. P.
Wilson, Harry E.

CORINTH
Adams, J. Cooper
Adams, W. C.
Brackstone, Fernand D.
Conn, W. D., Sr.
Hopper, H. A.
Hughes, Frank K.
Johnston, Thos. H.
Kier, W. H.
Mitchell, Ely B.
Mitchell, Joe B.
Moreland, G. C.
Sharpe, Wm. L.
Smith, O. R.
Stovall, Garey
Sumners, C. L.
Sweat, N. S.
Sweat, W. C.
Worsham, B. F.

CRYSTAL SPRINGS
Grice, L. E.
Smylie, J. A.

DE KALB
Brown, M. D.
Davis, D. P.
Daws, J. H.
McCully, J. T.
Spinks, L. P.
Stennis, John C.

DECATUR
Coursey, B. F.
Day, R. H.
Stone, H. R.
Stone, H. R., Jr.

DODDSVILLE
Eastland, Oliver

DREW
Cook, Virgil G.
Marsalis, O. M.
Miller, Herbert L.
Taylor, Wm. F.

DURANT
Drake, Carl F.
King, S. R.

EDWARDS
Montgomery, V. V.

ELLISVILLE
Saul, L. K.
Taylor, J. T.

ENTERPRISE
Buckley, J. Emmett
Buckley, John L.
Estes, Wm. M.

EUPORA
Eudy, J. E.
Gary, W. D.
Kimbrell, Frank
McKeigney, A. F.
McKeigney, Alexander
Scott, T. W.
Sugg, Robt. P.

FAYETTE
Corban, R. L.
Corban, R. L., Jr.
Davis, Edwin D.
Easterling, W. R.
Guice, Claude W.
Truly, E. G.
Truly, J. B.
Truly, Jeff

FLORA
Black, Maurice R.

FOREST
Cooper, A. W.
Dudley, Colbert
Huff, J. Knox
Huff, Thos. M.
Kent, Jeff
Lee, Percy M.
Lee, Percy M., Jr.
Lee, Roy Noble
Mize, Joseph S.
Mize, F. F.
Nichols, R. L.
Ramsey, L. K.
Triplett, O. B., Jr.

FULTON
Brown, J. H.
Cleveland, Arthur T.
McDonald, Edw. Leo
Sheffield, I. L.
Spearman, John C.

GLOSTER
Anderson, Fred A.
Lowrey, J. T.
Upton, Joe

GREENWOOD
Antoon, Edw. J.
Bell, A. H.
Brewer, Norman C.
Brown, Berry Davis
Bruce, Arthar
Catoe, Earl V., Jr.
Colson, J. G.
Denman, R. D.
Diamond, Harry
Gardner, A. F., Jr.
Guy, T. A.
Gwin, Samuel L.
Hamner, W. M.
Johnston, Means
Jordan, R. A.
Kimbrough, O. L.
Lamb, Knox
Lott, W. H.
McBee, Richard C., Jr.
McLellan, Miss Pearl
Montgomery, Gerald J.
Montjoy, Paul D., Jr.
Montjoy, W. H.
Morehead, Yerger
Odom, H. T.
Osborn, S. I.
Peteet, Porter
Petty, R. J.
Pierce, M. F.
Pollard, Charles A.
Pollard, R. V.
Pollard, R. V., Jr.
Portwood, Robert D.
Provine, B. B., Jr.
Stoner, Alfred
Taylor, Nelson E.
Whittington, William M.
Whittington, William M., Jr.
Witty, F. M.

GREENVILLE
Anderson, S. V.
Bell, Percy
Bogen, Edw. J.
Branton, Wm. Coleman
Carmichael, Benj. B.
Cook, Sam C.
Dunn, Allee
Dyer, Howard, Jr.
Farish, H. P.
Felts, Holland O.
Hafter, Jerome S.
Harty, Emmett
Keady, William C.
Kellner, Ernest
Kimble, Raymond V., Jr.
Lake, J. A., Jr.
McIlwain, W. L.
Payne, William
Price, Mrs. Zelma W.
Raphael, Eugene J.
Russell, Geo. Ramsey
Solomon, Earl
Stockdale, Roy
Stone, T. B.
Strauss, D. S.
Thomas, S. B.
Thompson, W. S.
Tindall, Chas. S., Jr.
Townsend, Don D.
Wasson, B. F.
Watson, Lamar

Watson, W. Scott
Wilkes, W. Ben
Wynn, Wm. T.

GRENADA
Carothers, A. M.
Horton, Cowles
Mims, S. C., Jr.
Mitchell, W. M.
Nicols, W. B.
Perry, Marshall
Roane, A. G.

GULFPORT
Arrington, Jo Drake
Babendreer, Eleanore,
Backstrom, Oscar
Bickerstaff, R. O.
Bloomfield, Horace
Bryant, Rae
Buntin, R. R.
Cook, Everett E.
Cottrell, David, Jr.
Cowan, R. C.
Dedeaux, O. J.
Dent, J. R.
Eaton, B. E.
Eaton, B. E., Jr.
Eaton, James S.
Estopinal, Wm.
Evans, H. H.
Ford, E. J., Jr.
Galloway, Chas. R.
Galloway, J. F.
Gardner, Hanun
Gardner, Hanun B.
Graham, D. M.
Graham, D. M., Jr.
Greaves, P. D.
Hardy, Leonard D.
Harrison, B. P.
Haydon, Chas. R.
Heiss, J. L.
Heiss, J. L., Jr.
Hewes, Gaston
Hewes, Wm. G.
Hoffman, C. L.
Jenkins, Edwin R.
Johnston, Albert S., Jr.
Lindsay, English
Maples, Luther W.
Marshall, Carl
Mize, Webb M.
Moore, Wm. T.
Morse, Stanford E.
Murphy, George H.
Ross, J. C.
Russell, D. M.
Russell, D. M., Jr.
Savage, J. W.
Simmons, J. U.
Taylor, J. L.
Thompson, Robert W., Jr.
Wallace, Carl G.
Wallace, R. A.
White, T. J.
White, W. A.

HATTIESBURG
Adams, B. C.
Albritton, James S.
Anderson, Cephus
Baker, B. H.
Berry, S. B.
Bertran, Ruth L.
Bishop, R. J.
Buchanan, Harry
Bush, M. M.
Clark, Lester
Conner, Dudley W.
Currie, Alexander
Currie, Dan T.
Currie, E. J., Jr.
Currie, Geo. W.
Currie, Neil T.
Dale, T. Price
Davis, James E.
Fishel, E. C.
Foote, Lawrence Y.
Hall, R. S.
Hall, Stanton A.
Hannah, T. C.
Haralson, William
Hathorn, F. C., Jr.
Hearst, A. A.
Heidelberg, R. W.
Henington, Lamar
Hill, C. E.
Holmes, D. W.
Hunt, F. M.
Jones, W. Arlington
Katz, Andrew D.
Kelly, A. F.
Koch, Harry E.
Koonce, Pat
Mayfield, Barton
Moore, Alfred
Morris, F. M.
Pittman, Claude F.
Pittman, Homer
Roberts, M. M.
Rollings, Robert N.
Simrall, James, Jr.
Smith, Luther A.
Stevens, Ben
Sullivan, C. W.
Sullivan, T. Harris
Tally, J. R.
Thompson, Joe Avery
Travis, J. Kearney
Travis, S. E.
Wills, T. J.
Wingo, Earl L.

HAZELHURST
Armstrong, John T.
Arrington, R. O.
Bass, Catherine
Ellis, Webb G.
Garth, J. Hunter
Guynes, J. F.
Henley, W. S.
Jones, W. Roger
Kemp, Carroll
King, Benjamin
Lewis, E. M.
Lewis, Mrs. Ida Lou
McEachern, Clement L.
McNeil, M. S.
Miller, Hugh Barr
Millsaps, R. W.
Salter, S. G.
Wilson, Charles D.
Wilson, H. J.
Zama, Miss Lena

HERNANDO
Barbee, J. W.
Bowdre, P. H.
Chatham, Gerald W.
Holmes, F. C.
Holmes, F. C., Jr.
Johnston, H. Grady
Logan, R. F. B.
Pollard, E. J.

HICKORY
McGee, S. E.

HOLLANDALE
Clark, E. S.
Goodman, Joseph

HOLLY SPRINGS
Belk, Fred M.
Belk, Wm. D.
Cochran, Hunter K.
Doxey, Hindman
Doxey, Wall
Fant, Lester G.
Fant, Glenn
Featherston, D. M.
Gholson, Daniel P.
Gholson, Mary C.
Overstreet, Webb
Smith, Lemuel A.
Smith, Lemuel A., Jr.

HOUSTON
Abernethy, H. B.
Busby, Jeff
Ethridge, W. N.
Haman, Thos. L.
McCraine, C. H.
Parker, Elliott

INDIANOLA
Allen, B. B.
Allen, Percy W.
Clark, A. B.

Cooper, Forrest G.
Davis, Howard Q.
Davis, Jefferson
Davis, S. F.
Everett, Frank E.
Everett, George A.
Featherstone, F. M.
Forman, J. M.
Johnson, Elbert
McLean, Geo. Hite
Moody, C. C.
Neill, S. D.
Price, J. H.
Thomas, Earl T.
Townsend, Oscar B.
Williams, J. L.

ITTA BENA
Bradford, J. W.

IUKA
Allen, Sam H.
Clark, J. O.
Clark, T. A.
Finch, J. S.
Gober, Curtis A.
Mounger, Wm. H.

JACKSON
Adams, L. M.
Alexander, Chalmers W.
Alexander, H. Chalmers
Alexander, James A.
Alexander, James A., Jr.
Alexander, Julian P.
Anderson, W. D.
Austin, B. G.
Austin, H. L.
Avery, Ralph B.
Bacon, Wm. Arthur
Bailey, C. B.
Barbour, J. S.
Barksdale, Henry
Barnett, Arden
Barnett, Ross R.
Berry, O. L.
Bilbo, Theo. G.
Blair, W. A.
Blalock, James A.
Blissard, Tom L.
Boren, H. A.
Bostic, Carl C.
Bowling, Francis S.
Bradshaw, F. W.
Bratton, Thos. S.
Brett, M. D.
Brewer, Earl
Britt, Geo. Thomas
Broom, Harmon W.
Broom, S. C.
Broom, Stewart C., Jr.
Brown, Bruce
Brown, James T.
Bryan, Harry M.
Buchanan, Frank J.
Burke, Webb W., Jr.
Burkett, John G.
Burnaman, C. Frederic
Burns, Robert, Jr.
Butler, George H.
Butler, George H., Jr.
Butler, James W.
Byars, W. G.
Byrd, J. L.
Carr, J. V.
Chadwick, Carl A.
Chambers, Paul
Chandler, Joe B.
Cheney, Reynolds S.
Childress, W. M.
Collins, Robt. W.
Conn, W. D., Jr.
Conner, M. S.
Coody, A. S., Jr.
Cooper, Owen
Cox, Wm. H.
Creekmore, H. H.
Creekmore, Wade H.
Crisler, Bert
Dinsmore, R. R.
Dunn, J. Thos.
Dunn, Vardaman S.
Eager, P. H., Jr.
Easterling, Lamar F.
Edmonds, Henry
Enochs, DeWitt C.
Ethridge, Geo. H.
Everett, Frank E., Jr.
Falkner, J. W. T., IV
Fleming, Robert E.
Flowers, Henry G.
Flowers, J. N.
Floyd, Earle N.
Fontaine, W. B.
Fountain, D. G.
Franklin, J. B.
Franklin, J. E.
Frey, M. M.
Friend, Joe N.
Fulton, Aubrey D.
Gordon, Chas. M.
Gore, W. E.
Graves, Charles L.
Green, Garner W.
Green, Garner W., Jr.
Green, Marcellus C.
Green, Marcellus
Griffith, V. A.
Gwinnup, Harry G.
Haley, Archie M.
Hall, H. G.
Hall, Stanley W.
Hamilton, George S.
Harper, A. Y.
Harris, Wm. W.
Hartford, Robt. W.
Hauberg, Robert E.
Heidelberg, Cecil F., Jr.
Hendrick, Leon F.
Hendrix, Thos. D.
Hester, C. L.
Hewitt, Wm. H.
Higgins, John B.
Hilton, R. T.
Himelstein, Ben
Hitch, Louis
Hobbs, H. W.
Holmes, E. R., Jr.
Hopkins, Hugh Sam
Horan, Leo
Howie, J. H.
Howie, Joseph
Hulen, Mrs. Elizabeth
Hutton, J. B., Jr.
Inman, C. E.
Jaap, C. O., Jr.
Jackson, F. B.
Jiggitts, Louis M.
Johnson, Ben F., Jr.
Johnson, Paul B.
Johnson, Paul B., Jr.
Jones, L. Barrett
Jones, Maurice M.
Jones, P. Z.
Kendall, Henry M.
Kendall, James T.
Knox, R. H.
Lackey, Samuel Earl, Jr.
Lauderdale, J. A.
Leach, H. B.
Lewis, Meyer A.
Lipscomb, Hubert
Long, L. H.
Longino, A. H.
Lotterhos, Fred J.
Love, James S., Jr.
Lyell, G. G.
Lyell, Garland G., Jr.
Manship, Luther
May, Geo. W.
May, L. P.
McClendon, B. B.
McClintock, Geo. Thomas
McDill, Jack
McGehee, Harvey
McGowan, M. M.
McGowen, Hardy R.
McIntosh, Tarver
Melton, Miss Louise
Mhoon, W. L. (Col.)
Mize, Sidney C.
Morse, Wm. E.
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Mounger, W. M.
Neal, Geo. S., Jr.
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Newman, Prentiss
Newman, W. R., Jr.
Nichols, H. A.

Nobles, George R.
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Owens, H. S.
Palmer, Eugene
Patterson, E. B.
Patton, Wright
Peirce, Whitfield
Peyton, F. Lewis
Pierce, W. W.
Pilgrim, M. A.
Pittman, H. P.
Posey, L. L.
Power, George B.
Pratt, Walter F.
Preston, John Basil
Quinn, L. Percy
Ray, Bob
Redmond, S. D. (Col.)
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Ricketts, Barron C.
Ridgeway, C. R.
Ridgeway, Charles R., Jr.
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Robertson, Stokes V.
Robertson, Stokes V., Jr.
Rogers, Shelby
Russell, Lee M.
Russell, R. C.
Sanders, J. O. S.
Sanders, J. O. S., Jr.
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Satterwhite, D. S.
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Shands, W. Nugent
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Simmons, D. J.
Skinner, J. E.
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Snow, Chas. B.
Stainton, R. L.
Steel, Talbot A.
Stennett, E. W.
Stennett, J. C.
Stevens, J. M.
Stevens, J. M., Jr.
Stirling, Carter
Stirling, J. B.
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Stricker, V. J., Jr.
Stringer, H. C.,
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Taylor, Swepson S.
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Thompson, Fulton
Thompson, J. H.
Thompson, R. H.
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Watkins, H. V.
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Guyton, J. D.
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Graham, S. M.
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Miller, M. V. B.
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Riddell, Talley D.
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Sams, L. F.
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Witherspoon, John

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Patterson, James N.
Patterson, Neville

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Williams, Frank M.

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Calhoun, Robert L.
McLeod, D. A.

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Bauer, T. L.
Braden, William, Jr.
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Brandon, Gerard
Brandon, J. M.
Brown, Jos. E.
Byrnes, C. F.
Coleman, Walter D.
Engle, C. F.
Geisenberger, W. A.
Gwin, Lucien C.
Hornsby, Oliver
Keyer, James H.
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Patterson, C. F.
Ratcliffe, E. H.
Whittington, L. A.

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Crawford, Marvin
Crum, C. L.
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Phyfer, Lamar
Pyle, L. A.
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Young, H. D.

NEWTON
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Anderson, D. M.
Banks, Geo. H.
Byrd, W. A.
Carr, J. M.
James, Wm. Howard
James, W. W.
Mejure, R. S.
Munn, W. I., Jr.
Roebuck, S. T.
Wall, E. R.

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Neill, J. C.
Neill, W. C.

OCEAN SPRINGS
Clark, Chas. E.
Poitevent, Schuyler, Jr.

OKOLONA
Abernethy, Thos. G.
Bean, George
Bearden, Wm. Ellis, Jr.
Morrison, H. L.
Williams, Chas. C.

OSYKA
Ott, W. D.

OXFORD
Andrews, Landon C.
Bratton, C. A.
Ethridge, Eugene B.
Ethridge, Wm. N., Jr.
Falkner, J. W. T.
Herbert, Lon D.
McCoy, Ben E.
McElroy, T. H.
Oldham, L. E.
Patton, Fred Barringer
Smallwood, R. L., Jr.
Smallwood, David Wiseman
Stone, Phil
Williams, R. X.

PACHUTA
Harwell, J. D.

PASCAGOULA
Bullard, Wm. D.
Colmer, Wm. M.
Ford, E. J.
Ford, J. I.
Gautier, H. W.
Heidelberg, H. P.
Maxted, D. J.
McLeod, O. L.
Wiesenberg, Otto Karl

PASS CHRISTIAN
Adam, C. B.
Adam, E. J., Jr.
Smith, George R.

PELAHATCHIE
Williams, David J.

PHILADELPHIA
Cooper, S. B.
Hillman, J. B.
Lewis, Clayton
Mars, James M.
McCraw, A. B.
Richardson, E. C.
Sanford, W. H.
Stribling, Dees
Weir, W. T.
Wilson, J. C.

PICAYUNE
Keaton, Grayson B.
McKee, H. K.
Steen, R. E.
Stockstill, J. E.
Thigpen, Tate
Tyler, Luther F.
Weaver, T. J.
Williams, Marguerite

PITTSBORO
Sheffield, Joe

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Greaves, J. M.

PONTOTOC
Fontaine, J. B.
Inzer, Wm. H.
Jaggers, Boudie A.
Mauldin, B. P.
Mitchell, A. M.
Rayburn, Kendall G.

POPLARVILLE
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Locke, Leopold
Mayfield, J. B.
Morse, J. M.
Parker, H. H.
Shivers, J. C.
Smith, Toxey Hall
Williams, E. B.

PORT GIBSON
Abraham, Jake Louis
Anderson, R. B.
Berger, C. Frederic
Davis, E. W.
Deake, J. T.
Drake, Joseph Turpin, Jr.
Satterfield, M. M.
Watson, G. S.
Weil, Karl

PORTERVILLE
Rogers, Fred

PRENTISS
Farr, Paul H.
Livingston, Robert
Livingston, W. H.
Luper, O. C.
Martin, G. L.
Milloy, G. M.

PURVIS
Bridges, L. C.
Broadus, A. Q.
Coleman, Edward F.
Cooper, J. E.
Davis, T. W., Jr.
Garraway, J. T.
Williamson, T. L.

QUITMAN
Butler, John Sharp
Case, H. F.
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Fatheree, J. D.
Latham, W. F.
Miller, H. L.

Shirley, J. E.

RALEIGH
Currie, Homer
Lane, E. M.
Martin, J. D.
Moss, Jos. H.
Tullos, R. S.

RAYMOND
Adams, James Hermon
Gillespie, H. B.
Gillespie, H. B., Jr.
Ratliff, P. D.
Williams, John Bell
Williams, M. Ney

RICHTON
Burdette, W. F.
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RIPLEY
Anderson, W. H.
Ayres, S. N.
Elliott, Benton W.
Pegram, T. E.
Pegram, T. E., Jr.
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Smith, Robt. B.
Street, Orbrey
Street, Oscar

ROLLING FORK
Brown, A. L.
Brownstein, Fred X.
Clements, E. C.
Clements, W. H.
Danzig, Elliott R.
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Hakes, Doric D.
Joor, J. S., Jr.
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Windham, Eugene P.
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ROSEDALE
Eddins, Jos. A.
Kaufman, M. L.
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Sillers, Walter
Valentine, A. F.

RULEVILLE
Eastland, J. O.
Eastland, W. C.
Everitt, Robt. D.
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Wiley, O. E.

SARDIS
Fank, Herbert M.
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Jack, E. E.

SENATOBIA
Carlton, C. Sidney
Dixon, T. Vincent
Dean, J. F.
Floyd, Jason H.
Holmes, Herbert
Johnson, Harper
Puryear, L. P.

SHAW
Lamensdorf, Rolland G.
Patty, Jack S.
Sievers, Laurance J.
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SHELBY
Neblett, George R.
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SILVER CREEK
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STARKVILLE
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Brown, L. W.
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Douglas, P. Lanier
Greene, John D., Jr.
Hartley, T. A.
Magruder, A. F.
Walker, B. M., Jr.
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Hutchison, Edw. G.
Hutchison, J. T.

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TUNICA
Bankston, W. L.
Bell, James W., Jr.
Cannon, L. C.
Dulaney, T. W.
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TUPELO
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Long, C. P.
Long, Sam P.
Long, S. H.
Lumpkin, Sam E.
Mitchell, Chas. S.
Mitchell, George T.
Mitchell, Guy W.
Mitchell, Guy W., Jr.
Mitchell, Wm. P.
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Rankin, John E.
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Canizaro, P. C.
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Dent, R. L.
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